

–CITE–

42 USC CHAPTER 130 – NATIONAL AFFORDABLE HOUSING 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

–HEAD–

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

–MISC1–

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## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12 section 1831q.

–End–

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SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1437c–1, 1437u of this title.

–End–

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TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12701. National housing goal

–STATUTE–

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 101, Nov. 28, 1990, 104 Stat. 4085.)

–MISC1–

#### SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–569, title I, Sec. 101, Dec. 27, 2000, 114 Stat.

2946, provided that: "This title [amending sections 5307, 12705c, and 12705d of this title] may be cited as the 'Housing Affordability Barrier Removal Act of 2000'."

#### SHORT TITLE

Section 1(a) of Pub. L. 101–625 provided that: "This Act [see Tables for classification] may be cited as the 'Cranston–Gonzalez National Affordable Housing Act'."

Section 201 of title II of Pub. L. 101–625 provided that: "This title [enacting subchapter II of this chapter, amending section 1437f of this title, and repealing sections 1437o and 1452b of this title, section 1706e of Title 12, Banks and Banking, and provisions set out as a note under section 1715l of Title 12] may be cited as the 'HOME Investment Partnerships Act'."

Section 301 of Pub. L. 101–625 provided that: "This subtitle [subtitle A (Secs. 301–310) of title III of Pub. L. 101–625, enacting subchapter III of this chapter] may be cited as the 'National Homeownership Trust Act'."

#### MILLENNIAL HOUSING COMMISSION

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 671, provided in part: "That \$1,500,000 shall be for necessary expenses of the Millennial Housing Commission, as authorized by section 206 of Public Law 106–74 [set out below], with the final report due no later than May 30, 2002 and a termination date of August 30, 2002,

notwithstanding section 206(f) and (g) of Public Law 106–74".

Pub. L. 106–74, title II, Sec. 206, Oct. 20, 1999, 113 Stat.

1070, as amended by Pub. L. 106–554, Sec. 1(a)(4) [div. B, title X, Sec. 1001], Dec. 21, 2000, 114 Stat. 2763, 2763A–310, provided that:

"(a) Establishment. – There is hereby established a commission to be known as the Millennial Housing Commission (in this section referred to as the 'Commission').

"(b) Study. – The duty of the Commission shall be to conduct a study that examines, analyzes, and explores –

"(1) the importance of housing, particularly affordable housing which includes housing for the elderly, to the infrastructure of the United States;

"(2) the various possible methods for increasing the role of the private sector in providing affordable housing in the United States, including the effectiveness and efficiency of such methods; and

"(3) whether the existing programs of the Department of Housing and Urban Development work in conjunction with one another to provide better housing opportunities for families, neighborhoods, and communities, and how such programs can be improved with respect to such purpose.

"(c) Membership. –

"(1) Number and Appointment. – The Commission shall be composed of 22 members, appointed not later than January 1, 2000, as follows:

"(A) Two co-chairpersons appointed by –

"(i) one co-chairperson appointed by a committee consisting of the chairmen of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate, and the chairman of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the chairman of the Subcommittee on Housing and Transportation of the Senate; and

"(ii) one co-chairperson appointed by a committee consisting of the ranking minority members of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate, and the ranking minority member of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the ranking minority member of the Subcommittee on Housing and Transportation of the Senate.

"(B) Ten members appointed by the Chairman and Ranking Minority Member of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives.

"(C) Ten members appointed by the Chairman and Ranking

Minority Member of the Committee on Appropriations of the Senate and the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) Qualifications. – Appointees should have proven expertise in directing, assembling, or applying capital resources from a variety of sources to the successful development of affordable housing or the revitalization of communities, including economic and job development.

"(3) Vacancies. – Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

"(4) Chairpersons. – The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

"(5) Prohibition of pay. – Members of the Commission shall serve without pay.

"(6) Travel expenses. – Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(7) Quorum. – A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(8) Meetings. – The Commission shall meet at the call of the Chairpersons.

"(d) Director and Staff. –

"(1) Director. – The Commission shall have a Director who shall

be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

"(2) Staff. – The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

"(3) Experts and consultants. – The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

"(4) Staff of federal agencies. – Upon request of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

"(e) Powers. –

"(1) Hearings and sessions. – The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

"(2) Powers of members and agents. – Any member or agent of the

Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

"(3) Obtaining official data. – The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission.

"(4) Gifts, bequests, and devises. – The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

"(5) Mails. – The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(6) Administrative support services. – Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

"(7) Contract Authority. – The Commission may contract with and compensate Government and private agencies or persons for

services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(f) Report. – The Commission shall submit to the Committees on Appropriations and Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a final report not later than March 1, 2002. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the study conducted under subsection (b), together with its recommendations for legislation, administrative actions, and any other actions the Commission considers appropriate.

"(g) Termination. – The Commission shall terminate on June 30, 2002. Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission."

COMMISSION ON AFFORDABLE HOUSING AND HEALTH FACILITY NEEDS FOR SENIORS IN THE 21ST CENTURY

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 671, provided in part: "That \$1,000,000 shall be for necessary expenses of the commission established under section 525 of the Preserving Affordable Housing for Senior Citizens and Families in the 21st Century Act [Pub. L. 106–74, set out below], with the final report due no later than June 30, 2002 and a termination date of September 30, 2002, notwithstanding section 525(f) and (g) of Public Law 106–74".

Pub. L. 106–74, title V, Sec. 525, Oct. 20, 1999, 113 Stat. 1106, as amended by Pub. L. 106–377, Sec. 1(a)(1) [title II, Sec. 230], Oct. 27, 2000, 114 Stat. 1441, 1441A–31, provided that:

"(a) Establishment. – There is hereby established a commission to be known as the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century (in this section referred to as the 'Commission').

"(b) Study. – The duty of the Commission shall be to conduct a study that –

"(1) compiles and interprets information regarding the expected increase in the population of persons 62 years of age or older, particularly information regarding distribution of income levels, homeownership and home equity rates, and degree or extent of health and independence of living;

"(2) provides an estimate of the future needs of seniors for affordable housing and assisted living and health care facilities;

"(3) provides a comparison of estimate of such future needs with an estimate of the housing and facilities expected to be provided under existing public programs, and identifies possible actions or initiatives that may assist in providing affordable housing and assisted living and health care facilities to meet such expected needs;

"(4) identifies and analyzes methods of encouraging increased private sector participation, investment, and capital formation in affordable housing and assisted living and health care

facilities for seniors through partnerships between public and private entities and other creative strategies;

"(5) analyzes the costs and benefits of comprehensive aging-in-place strategies, taking into consideration physical and mental well-being and the importance of coordination between shelter and supportive services;

"(6) identifies and analyzes methods of promoting a more comprehensive approach to dealing with housing and supportive service issues involved in aging and the multiple governmental agencies involved in such issues, including the Department of Housing and Urban Development and the Department of Health and Human Services; and

"(7) examines how to establish intergenerational learning and care centers and living arrangements, in particular to facilitate appropriate environments for families consisting only of children and a grandparent or grandparents who are the head of the household.

"(c) Membership. –

"(1) Number and Appointment. – The Commission shall be composed of 14 members, appointed not later than January 1, 2000, as follows:

"(A) Two co-chairpersons, of whom –

"(i) one co-chairperson shall be appointed by a committee consisting of the chairman of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the chairman of the Subcommittee on Housing and

Transportation of the Senate, and the chairmen of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate; and

"(ii) one co-chairperson shall be appointed by a committee consisting of the ranking minority member of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the ranking minority member of the Subcommittee on Housing and Transportation of the Senate, and the ranking minority members of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate.

"(B) Six members appointed by the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Chairman and Ranking Minority Member of the Committee on Appropriations of the House of Representatives.

"(C) Six members appointed by the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Committee on Appropriations of the Senate.

"(2) Qualifications. – Appointees should have proven expertise

in directing, assembling, or applying capital resources from a variety of sources to the successful development of affordable housing, assisted living facilities, or health care facilities.

"(3) Vacancies. – Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

"(4) Chairpersons. – The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

"(5) Prohibition of pay. – Members of the Commission shall serve without pay.

"(6) Travel expenses. – Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(7) Quorum. – A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(8) Meetings. – The Commission shall meet at the call of the Chairpersons.

"(d) Director and Staff. –

"(1) Director. – The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(2) Staff. – The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed

subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

"(3) Experts and consultants. – The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

"(4) Staff of federal agencies. – Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

"(e) Powers. –

"(1) Hearings and sessions. – The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

"(2) Powers of members and agents. – Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

"(3) Obtaining official data. – The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon

request of the Chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission.

"(4) Gifts, bequests, and devises. – The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

"(5) Mails. – The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(6) Administrative support services. – Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

"(7) Contract authority. – The Commission may contract with and compensate Government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(f) Report. – The Commission shall submit to the Committees on Banking and Financial Services [now Committee on Financial Services] and Appropriations of the House of Representatives and

the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate, a final report not later than December 31, 2001. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the study conducted under subsection (b), together with its recommendations for legislation, administrative actions, and any other actions the Commission considers appropriate.

"(g) Termination. – The Commission shall terminate on June 30, 2002. Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission."

–End–

–CITE–

42 USC Sec. 12702 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12702. Objective of national housing policy

–STATUTE–

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able –

(1) to ensure that every resident of the United States has

access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 102, Nov. 28, 1990, 104 Stat. 4085.)

–End–

–CITE–

42 USC Sec. 12703 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12703. Purposes of Cranston–Gonzalez National Affordable

Housing Act

–STATUTE–

The purposes of this Act are –

- (1) to help families not owning a home to save for a down payment for the purchase of a home;
- (2) to retain wherever feasible as housing affordable to low–income families those dwelling units produced for such purpose with Federal assistance;
- (3) to extend and strengthen partnerships among all levels of government and the private sector, including for–profit and nonprofit organizations, in the production and operation of housing affordable to low–income and moderate–income families;
- (4) to expand and improve Federal rental assistance for very low–income families; and
- (5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 103, Nov. 28, 1990, 104 Stat. 4085.)

–REFTEXT–

REFERENCES IN TEXT

This Act, referred to in text, 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.

–End–

–CITE–

42 USC Sec. 12704 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12704. Definitions

–STATUTE–

As used in this subchapter and in subchapter II of this chapter:

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 12746(2) of this title; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to

legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government that has been so designated in accordance with section 12746 of this title.

(5) The term "nonprofit organization" means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that –

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization as defined in paragraph (5), that –

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the

design, siting, development, and management of affordable

housing;

(C) has a demonstrated capacity for carrying out activities

assisted under this Act; and

(D) has a history of serving the local community or

communities within which housing to be assisted under this Act

is to be located.

In the case of an organization serving more than one county, the

Secretary may not require that such organization, to be

considered a community housing development organization for

purposes of this Act, include as members on the organization's

governing board low-income persons residing in each county

served.

(7) The term "government-sponsored mortgage finance

corporations" means the Federal National Mortgage Association,

the Federal Home Loan Mortgage Corporation, and the Federal

Agricultural Mortgage Corporation.

(8) The term "housing" includes manufactured housing and

manufactured housing lots and elder cottage housing opportunity

units that are small, free-standing, barrier-free,

energy-efficient, removable, and designed to be installed

adjacent to existing 1- to 4-family dwellings.

(9) The term "very low-income families" means low-income

families whose incomes do not exceed 50 percent of the median

family income for the area, as determined by the Secretary with

adjustments for smaller and larger families, except that the

Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 1437a of this title.

(12) The term "security" has the same meaning as in section 77b of title 15.

(13) 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.

(14) The term "first-time homebuyer" means an individual and

his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under subchapter II of this chapter, except that –

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph 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;

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph 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; and

(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is –

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or  
(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(15) 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.

(16) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of \$25,000 per dwelling unit.

(18) The term "public housing agency" has the meaning given the term in section 1437a(b) of this title.

(19) The term "metropolitan city" has the meaning given the term in section 5302(a)(4) of this title.

(20) The term "urban county" has the meaning given the term in section 5302(a)(6) of this title.

(21) The term "certification" means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23) (!1) The term "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

(24) (!2) The term "insular area" means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and

American Samoa.

(24) (!2) The term "energy efficient mortgage" means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(25) The term "energy efficient mortgage" means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 104, Nov. 28, 1990, 104 Stat. 4085; Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 101–230, Sec. 2, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102–486, title I, Sec. 105(a), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102–550, title II, Secs. 211(a)(1), 217(a), 218, 219, title IX, Sec. 914(a), Oct. 28, 1992, 106 Stat. 3756, 3760, 3761, 3877; Pub. L. 103–233, title II, Sec. 201, Apr. 11, 1994, 108 Stat. 363.)

–REFTEXT–

#### REFERENCES IN TEXT

This Act, referred to in pars. (1), (2), (6), (16), and (21), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, as amended, 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.

–MISC1–

## AMENDMENTS

1994 – Par. (2). Pub. L. 103–233 struck out "and" after "Columbia," and inserted before period at end ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act".

1992 – Par. (1). Pub. L. 102–550, Sec. 211(a)(1), amended this section to read as if amendment made by Pub. L. 102–230, Sec. 2(1), had not been enacted. See 1991 Amendment note below.

Par. (6). Pub. L. 102–550, Sec. 217(a), inserted concluding provisions.

Par. (8). Pub. L. 102–550, Sec. 218, inserted before period at end "and elder cottage housing opportunity units that are small, free–standing, barrier–free, energy–efficient, removable, and designed to be installed adjacent to existing 1– to 4–family dwellings".

Par. (14)(C). Pub. L. 102–550, Sec. 219, added subpar. (C).

Par. (24). Pub. L. 102–550, Sec. 211(a)(1), amended this section to read as if amendment made by Pub. L. 102–230, Sec. 2(2), had not been enacted. See 1991 Amendment note below.

Pub. L. 102–486 added par. (24) defining "energy efficient mortgage".

Par. (25). Pub. L. 102–550, Sec. 914(a), added par. (25).

1991 – Par. (1). Pub. L. 102–230, Sec. 2(1), directed the substitution of "the insular areas" for "Guam, the Northern Mariana

Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands". See 1992 Amendment note above.

Pub. L. 102–229 struck out "Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa," after "of a State;".

Par. (24). Pub. L. 102–230, Sec. 2(2), directed the addition of a par. (24) to read as follows: "(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa." See 1992 Amendment note above.

Pub. L. 102–229 added par. (24) defining "insular area".

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (Sec. 12721 et seq.) of this chapter after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45–day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 211(b) of Pub. L. 102–550 provided that: "The amendments made by subsection (a) [amending this section and section 12747 of this title] shall apply with respect to fiscal year 1993 and thereafter."

Section 223 of title II of Pub. L. 102–550 provided that: "The amendments made by this title [enacting section 12810 of this title

and amending this section and sections 12705, 12724, 12742, 12745 to 12748, 12750, 12771, 12773, 12774, 12782, and 12784 of this title] shall apply to unexpended funds allocated under title II of the Cranston–Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] in fiscal year 1992, except as otherwise specifically provided."

#### REGULATIONS

Section 222 of title II of Pub. L. 102–550 provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [enacting section 12810 of this title, amending this section and sections 12705, 12724, 12742, 12745 to 12748, 12750, 12771, 12773, 12774, 12782, and 12784 of this title, and enacting provisions set out as notes under this section and sections 12746, 12747, and 12750 of this title] and the amendments made by this title not later than the expiration of the 180–day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section)."

#### TRANSITION RULE

Section 217(b) of Pub. L. 102–550 provided that: "For the purposes of determining compliance with the requirements of section 104(6) of the Cranston–Gonzalez National Affordable Housing Act [42

U.S.C. 12704(6)], the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act [42 U.S.C. 12721 et seq.] or September 30, 1993, whichever is sooner."

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437bbb–8, 1472, 11403g, 12773, 12896, 12902 of this title; title 12 section 4116.

–FOOTNOTE–

(1) So in original. Probably should be "(22)".

(12) So in original. Two pars. (24) have been enacted.

–End–

–CITE–

42 USC Sec. 12705 01/06/03

–EXPCITE–

#### TITLE 42 – THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12705. State and local housing strategies

–STATUTE–

(a) In general

The Secretary shall provide assistance directly to a jurisdiction

only if –

- (1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");
- (2) the jurisdiction submits annual updates of the housing strategy; and
- (3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under subchapter II of this chapter and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) Contents

A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall –

- (1) describe the jurisdiction's estimated housing needs projected for the ensuing 5–year period, and the jurisdiction's need for assistance for very low–income, low–income, and moderate–income families, specifying such needs for different types of tenure and for different categories of residents, such

as very low-income, low-income, and moderate-income families, the elderly, persons with disabilities, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, including tabular representation of such information, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the

jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under subchapter II of this chapter, the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing and Community Development Act of 1974, and the McKinney–Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (!1) (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;

(9) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(10) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(11) describe the manner in which the plan of the jurisdiction

will help address the needs of public housing;

(12) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(13) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(14) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(15) include a certification that the jurisdiction will affirmatively further fair housing;

(16) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under subchapter II of this chapter, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(d)] in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act [42 U.S.C. 5306, 5318];

(17) estimate the number of housing units within the

jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 4851b of this title, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs;

(18) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 12745 of this title using funds made available;

(19) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(20) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under subchapter II of this chapter.

Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) Approval

(1) In general

The Secretary shall review the housing strategy upon receipt.

Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) of this section has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) of this section shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following November 28, 1990, the Secretary may extend the review period to not longer than 90 days.

(2) Actions in case of disapproval

If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in

writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) Amendments and resubmission

The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved.

The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) Coordination of State and local housing strategies

The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) Consultation with social service agencies

(1) In general

When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(2) Lead-based paint hazards

When preparing that portion of a housing strategy required by subsection (b)(16) of this section, a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

(f) Barrier removal

Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

(g) Treatment of troubled public housing agencies

(1) Effect of troubled status on CHAS

The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under this section unless such plan includes a

description of the manner in which the State or unit will provide financial or other assistance to such troubled agency in improving its operations to remove such designation.

(2) Definition

For purposes of this subsection, the term "troubled public housing agency" means a public housing agency that, upon the effective date of the Quality Housing and Work Responsibility Act of 1998, is designated under section 6(j)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)(2)] as a troubled public housing agency.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 105, Nov. 28, 1990, 104 Stat. 4088; Pub. L. 102–550, title II, Sec. 220, title VI, Sec. 681, title X, Sec. 1014, title XII, Sec. 1206, Oct. 28, 1992, 106 Stat. 3761, 3830, 3908, 3940; Pub. L. 105–276, title V, Secs. 568, 583, Oct. 21, 1998, 112 Stat. 2634, 2644; Pub. L. 106–400, Sec. 2, Oct. 30, 2000, 114 Stat. 1675.)

–REFTEXT–

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(6), (14) and (c)(1), 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.

The United States Housing Act of 1937, referred to in subsec. (b)(7), is act Sept. 1, 1937, ch. 896, as revised generally by Pub.

L. 93–383, title II, Sec. 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (Sec. 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(7), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The McKinney–Vento Homeless Assistance Act, referred to in subsec. (b)(7), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (Sec. 11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The effective date of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (g)(2), probably means the general effective date for title V of Pub. L. 105–276, included in section 503 of Pub. L. 105–276 which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

–MISC1–

#### AMENDMENTS

2000 – Subsec. (b)(7). Pub. L. 106–400 substituted

"McKinney–Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

1998 – Subsec. (b). Pub. L. 105–276, Sec. 583(1), transferred flush provisions relating to abbreviated housing strategies to end of subsection to follow last numbered paragraph.

Subsec. (b)(11) to (15). Pub. L. 105–276, Sec. 583(6), (7), added par. (11) and redesignated former pars. (11) to (14) as (12) to (15), respectively. Former par. (15) redesignated (16).

Subsec. (b)(16). Pub. L. 105–276, Sec. 583(6), redesignated par. (15) as (16). Former par. (16), relating to housing units that contain lead–based paint hazards, redesignated (17), and former par. (16), relating to number of families to whom jurisdiction will provide affordable housing, redesignated (18).

Pub. L. 105–576, Sec. 583(5)(A), substituted "programs;" for "programs." in par. (16) relating to housing units that contain lead–based paint hazards.

Pub. L. 105–576, Sec. 583(4)(A), struck out "and" at end of par. (16) relating to number of families to whom jurisdiction will provide affordable housing.

Subsec. (b)(17). Pub. L. 105–276, Sec. 583(5)(B), redesignated par. (16), relating to housing units that contain lead–based paint hazards, as (17). Former par. (17), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, redesignated (19), and former par. (17), relating to activities to enhance coordination, redesignated (20).

Subsec. (b)(18). Pub. L. 105–276, Sec. 583(4)(B), redesignated par. (16), relating to number of families to whom jurisdiction will provide affordable housing, as (18).

Subsec. (b)(19). Pub. L. 105–276, Sec. 583(3), redesignated par. (17), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, as (19).

Subsec. (b)(20). Pub. L. 105–276, Sec. 583(2), redesignated par. (17), relating to activities to enhance coordination, as (20).

Subsec. (g). Pub. L. 105–276, Sec. 568, added subsec. (g).

1992 – Subsec. (b)(1). Pub. L. 102–550, Sec. 681(1), inserted "persons with disabilities," after "the elderly,".

Subsec. (b)(2). Pub. L. 102–550, Sec. 220(a), inserted ", including rural homelessness," after "extent of homelessness" and "including tabular representation of such information," after "with homelessness,".

Subsec. (b)(4). Pub. L. 102–550, Sec. 1206, inserted before semicolon at end ", except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph".

Subsec. (b)(8). Pub. L. 102–550, Sec. 220(c)(2), added par. (8).

Former par. (8) redesignated (9).

Subsec. (b)(9) to (13). Pub. L. 102–550, Sec. 220(c)(1), redesignated pars. (8) to (12) as (9) to (13), respectively. Former par. (13) redesignated (14).

Subsec. (b)(14). Pub. L. 102–550, Sec. 220(c)(1), redesignated

par. (13) as (14). Former par. (14) redesignated (15).

Pub. L. 102–550, Sec. 220(b)(1), added par. (14) and struck out former par. (14) which read as follows: "include a certification that the jurisdiction is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the jurisdiction); and".

Subsec. (b)(15). Pub. L. 102–550, Sec. 220(c)(1), redesignated par. (14) as (15). Former par. (15) redesignated (16).

Subsec. (b)(16). Pub. L. 102–550, Sec. 1014(3), added par. (16) relating to housing units that contain lead–based paint hazards.

Pub. L. 102–550, Sec. 220(c)(1), redesignated par. (15) as (16). Former par. (16) redesignated (17).

Pub. L. 102–550, Sec. 220(b)(3), added at end par. (16) relating to reducing the number of households within a jurisdiction with incomes below the poverty line.

Subsec. (b)(17). Pub. L. 102–550, Sec. 681(2), which directed amendment of subsec. (b) by adding "after paragraph (16), as added by the preceding provisions of this Act", a new par. (17) relating to activities to enhance coordination, was executed by adding that par. (17) after par. (17) (formerly par. (16), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, to reflect the probable intent of Congress.

Pub. L. 102–550, Sec. 220(c)(1), redesignated par. (16), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, as (17).

Subsec. (e). Pub. L. 102–550, Sec. 1014(4), designated existing provisions as par. (1), inserted heading, and added par. (2).

#### 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.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 220 of Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

Amendment by subtitles B through F of title VI [Secs. 621–685] of Pub. L. 102–550 applicable upon expiration of 6–month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437e, 1437f, 1437aaa–1, 1437aaa–2, 1439, 1485, 1490l, 4852, 5304, 5318a, 8013, 11361, 11375, 11386, 11394, 11403c, 11432, 12705b, 12705c, 12708, 12746, 12747, 12752, 12872, 12873, 12892, 12893, 12899b, 12899c, 12903 of this title; title 12 sections 1456, 1701q, 1723a, 4117.

–FOOTNOTE–

(1) So in original. Probably should be "paragraphs".

–End–

–CITE–

42 USC Sec. 12705a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12705a. Purposes of Removal of Regulatory Barriers to  
Affordable Housing Act

–STATUTE–

The purposes of sections 12705a to 12705d of this title are –

(1) to encourage State and local governments to further  
identify and remove regulatory barriers to affordable housing  
(including barriers that are excessive, unnecessary, duplicative,  
or exclusionary) that significantly increase housing costs and  
limit the supply of affordable housing; and  
(2) to strengthen the connection between Federal housing  
assistance and State and local efforts to identify and eliminate  
regulatory barriers.

–SOURCE–

(Pub. L. 102–550, title XII, Sec. 1202, Oct. 28, 1992, 106 Stat.  
3938.)

–REFTEXT–

## REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original "this title", meaning title XII of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as a note below.

–COD–

## CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston–Gonzalez National Affordable Housing Act which comprises this chapter.

–MISC1–

## SHORT TITLE

Section 1201 of title XII of Pub. L. 102–550 provided that: "This title [enacting this section and sections 12705b to 12705d of this title, amending sections 5306 and 12705 of this title, and enacting provisions set out as a note below] may be cited as the 'Removal of Regulatory Barriers to Affordable Housing Act of 1992'."

## REPORT BY SECRETARY

Pub. L. 102–550, title XII, Sec. 1207, Oct. 28, 1992, 106 Stat. 3941, provided that not later than 2 years after Oct. 28, 1992, the Secretary of Housing and Urban Development submit a report to

Congress describing any successful State and local strategies for removal of barriers to affordable housing, assessing impact of identified regulatory barriers on housing patterns of minorities, and describing any strategies developed or implemented by Department of Housing and Urban Development for reducing barriers to affordable housing imposed by Federal Government, prior to repeal by Pub. L. 105–362, title VII, Sec. 701(b), Nov. 10, 1998, 112 Stat. 3287.

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12705b of this title.

–End–

–CITE–

42 USC Sec. 12705b 01/06/03

–EXPCITE–

#### TITLE 42 – THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12705b. Definition of regulatory barriers to affordable housing

–STATUTE–

For purposes of sections 12705a to 12705d of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or

processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 12705(b)(4) of this title. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

–SOURCE–

(Pub. L. 102–550, title XII, Sec. 1203, Oct. 28, 1992, 106 Stat. 3938.)

–REFTEXT–

#### REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original "this title", meaning title XII of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as notes under section 12705a of this title.

–COD–

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers

to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston–Gonzalez National Affordable Housing Act which comprises this chapter.

–SECREf–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12705a, 12705c of this title.

–End–

–CITE–

42 USC Sec. 12705c 01/06/03

–EXPCITE–

#### TITLE 42 – THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12705c. Grants for regulatory barrier removal strategies and implementation

–STATUTE–

#### (a) Funding

There is authorized to be appropriated for grants under subsections (b) and (c) (!1) of this section such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

#### (b) Grant authority

The Secretary may make grants to States and units of general

local government (including consortia of such governments) for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of –

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide State, local, or regional programs to reduce regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State or local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

(5) carrying out the simplification and consolidation of administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

(c) Repealed. Pub. L. 106–569, title I, Sec. 102(c), Dec. 27, 2000, 114 Stat. 2947

(d) Definitions

For purposes of this section, the terms "regulatory barriers to affordable housing" and "regulatory barriers" have the meaning

given such terms in section 12705b of this title.

(e) Application and selection

The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 12705(b)(4) of this title.

(f) Selection of grantees

To the extent amounts are made available to carry out this section, the Secretary shall provide grants on a competitive basis to eligible grantees based on the proposed uses of such amounts, as provided in applications under subsection (e) of this section.

(g) Coordination with clearinghouse

Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 12705d of this title.

(h) Reports to Secretary

Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities

carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

–SOURCE–

(Pub. L. 102–550, title XII, Sec. 1204, Oct. 28, 1992, 106 Stat. 3938; Pub. L. 106–569, title I, Sec. 102(a)–(e), Dec. 27, 2000, 114 Stat. 2946, 2947.)

–REFTEXT–

#### REFERENCES IN TEXT

Subsection (c) of this section, referred to in subsec. (a), was repealed by Pub. L. 106–569, title I, Sec. 102(c), Dec. 27, 2000, 114 Stat. 2947.

–COD–

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston–Gonzalez National Affordable Housing Act which comprises this chapter.

Section is comprised of section 1204 of Pub. L. 102–550.

Subsection (i) of section 1204 of Pub. L. 102–550 amended section 5306 of this title.

–MISC1–

#### AMENDMENTS

2000 – Subsec. (a). Pub. L. 106–569, Sec. 102(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as

follows: "The amounts set aside under section 5307 of this title for the purpose of this subsection shall be available for grants under subsection (b) and (c) of this section."

Subsec. (b). Pub. L. 106–569, Sec. 102(b)(1), (2), substituted "Grant authority" for "State grants" in heading and inserted "and units of general local government (including consortia of such governments)" after "States" in introductory provisions.

Subsec. (b)(3). Pub. L. 106–569, Sec. 102(b)(3), substituted "State, local, or regional programs to reduce" for "a State program to reduce State and local".

Subsec. (b)(4). Pub. L. 106–569, Sec. 102(b)(4), inserted "or local" after "State".

Subsec. (b)(5). Pub. L. 106–569, Sec. 102(b)(5), struck out "State" before "administrative procedures".

Subsec. (c). Pub. L. 106–569, Sec. 102(c), struck out heading and text of subsec. (c) which related to local grants.

Subsec. (e). Pub. L. 106–569, Sec. 102(d), substituted "and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 12705(b)(4) of this title" for "and for the selection of units of general local government to receive grants under subsection (f)(2) of this section" before period at end.

Subsec. (f). Pub. L. 106–569, Sec. 102(e), amended heading and text of subsec. (f) generally, substituting provisions relating to selection of grantees for provisions relating to allocation of

amounts.

–SECRET–

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12705a, 12705b of this title.

–FOOTNOTE–

(1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 12705d 01/06/03

–EXPCITE–

## TITLE 42 – THE PUBLIC HEALTH AND WELFARE

### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12705d. Regulatory barriers clearinghouse

–STATUTE–

(a) Establishment

The Secretary of Housing and Urban Development shall establish a clearinghouse to serve as a national repository to receive,

collect, process, assemble, and disseminate information regarding –

(1) State and local laws, regulations, and policies affecting

the development, maintenance, improvement, availability, or cost

of affordable housing (including tax policies affecting land and

other property, land use controls, zoning ordinances, building

codes, fees and charges, growth limits, and policies that affect

the return on investment in residential property), and the prevalence and effects on affordable housing of such laws, regulations, and policies;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies, including particularly innovative or successful activities, strategies, and plans; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation, including particularly innovative or successful strategies, activities, and plans.

(b) Functions

The clearinghouse established under subsection (a) of this section shall –

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a) of this section;

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans; and

(3) by making available through a World Wide Web site of the Department, by electronic mail, or otherwise, provide to each housing agency of a unit of general local government that serves an area having a population greater than 100,000, an index of all

State and local strategies and plans submitted under subsection

(a) of this section to the clearinghouse, which –

(A) shall describe the types of barriers to affordable housing that the strategy or plan was designed to ameliorate or remove; and

(B) shall, not later than 30 days after submission to the clearinghouse of any new strategy or plan, be updated to include the new strategy or plan submitted.

(c) Organization

The clearinghouse under this section shall be established within the Office of Policy Development of the Department of Housing and Urban Development and shall be under the direction of the Assistant Secretary for Policy Development and Research.

(d) Timing

The clearinghouse under this section (as amended by section 103 of the Housing Affordability Barrier Removal Act of 2000) shall be established and commence carrying out the functions of the clearinghouse under this section not later than 1 year after December 27, 2000. The Secretary of Housing and Urban Development may comply with the requirements under this section by reestablishing the clearinghouse that was originally established to comply with this section and updating and improving such clearinghouse to the extent necessary to comply with the requirements of this section as in effect pursuant to the enactment of such Act.

–SOURCE–

(Pub. L. 102–550, title XII, Sec. 1205, Oct. 28, 1992, 106 Stat. 3940; Pub. L. 106–569, title I, Sec. 103, Dec. 27, 2000, 114 Stat. 2947.)

–REFTEXT–

#### REFERENCES IN TEXT

The Housing Affordability Barrier Removal Act of 2000, referred to in subsec. (d), is title I of Pub. L. 106–569, Dec. 27, 2000, 114 Stat. 2946. Section 103 of the Act amended this section. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 12701 of this title and Tables.

–COD–

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston–Gonzalez National Affordable Housing Act which comprises this chapter.

–MISC1–

#### AMENDMENTS

2000 – Subsec. (a). Pub. L. 106–569, Sec. 103(1)(A), substituted "serve as a national repository to receive, collect, process, assemble, and disseminate" for "receive, collect, process, and assemble" in introductory provisions.

Subsec. (a)(1). Pub. L. 106–569, Sec. 103(1)(B), substituted "(including" for ", including" and inserted ")", and the prevalence

and effects on affordable housing of such laws, regulations, and policies" before semicolon at end.

Subsec. (a)(2). Pub. L. 106–569, Sec. 103(1)(C), inserted before semicolon ", including particularly innovative or successful activities, strategies, and plans".

Subsec. (a)(3). Pub. L. 106–569, Sec. 103(1)(D), inserted before period at end ", including particularly innovative or successful strategies, activities, and plans".

Subsec. (b)(3). Pub. L. 106–569, Sec. 103(2), added par. (3).

Subsecs. (c), (d). Pub. L. 106–569, Sec. 103(3), added subsecs.

(c) and (d).

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12705a, 12705b, 12705c of this title.

–End–

–CITE–

42 USC Sec. 12706 01/06/03

–EXPCITE–

#### TITLE 42 – THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12706. Certification

–STATUTE–

The Secretary shall, by regulation or otherwise, as deemed by the

Secretary to be appropriate, require any application for housing assistance under subchapter II of this chapter, assistance under the Housing and Community Development Act of 1974, or assistance under the McKinney–Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 106, Nov. 28, 1990, 104 Stat. 4091; Pub. L. 106–400, Sec. 2, Oct. 30, 2000, 114 Stat. 1675.)

–REFTEXT–

#### REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in text, is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended.

For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The McKinney–Vento Homeless Assistance Act, referred to in text, is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (Sec. 11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

–MISC1–

#### AMENDMENTS

2000 – Pub. L. 106–400 substituted "McKinney–Vento Homeless

Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

~~–SECRET–~~

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12708 of this title.

~~–End–~~

~~–CITE–~~

42 USC Sec. 12707 01/06/03

~~–EXPCITE–~~

#### TITLE 42 – THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

~~–HEAD–~~

Sec. 12707. Citizen participation

~~–STATUTE–~~

(a) In general

Before submitting a housing strategy under this section,(!1) a jurisdiction shall –

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the

proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) Notice and comment

Before submitting any performance report or substantial amendment to a housing strategy under this section, (!1) a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) Consideration of comments

A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) Regulations

The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or

performance reports.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 107, Nov. 28, 1990, 104 Stat. 4091.)

–SECREP–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12835 of this title.

–FOOTNOTE–

(!1) So in original. The words "this section" probably should be "section 12705 of this title".

–End–

–CITE–

42 USC Sec. 12708 01/06/03

–EXPCITE–

#### TITLE 42 – THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12708. Compliance

–STATUTE–

(a) Performance reports

(1) In general

Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting

its goal established in section 12705(b)(15) (!1) of this title, and information on the number and types of households served, including the number of very low–income, low–income, and moderate–income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) Submission

The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) Failure to report

If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under subchapter II of this chapter or the other programs referred to in section 12706 of this title may be –

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) Performance review by Secretary

(1) In general

The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 12705 of this title are reviewed not less frequently than annually. Such review

shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's –

- (A) management of funds made available under programs administered by the Secretary;
- (B) compliance with its housing strategy;
- (C) accuracy in the preparation of performance reports under subsection (a) of this section; and
- (D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) Report by Secretary

The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) Review by courts

The adequacy of information submitted under section 12705(b)(4) of this title shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency

of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 108, Nov. 28, 1990, 104 Stat. 4092.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 12705(b)(15) of this title, referred to in subsec.

(a)(1), was redesignated section 12705(b)(16) of this title by Pub.

L. 102–550, title II, Sec. 220(c)(1), Oct. 28, 1992, 106 Stat.

3762, and was subsequently redesignated section 12705(b)(18) of this title by Pub. L. 105–276, title V, Sec. 583(4)(A), Oct. 21, 1998, 112 Stat. 2644.

This Act, referred to in subsecs. (a)(2) and (c), 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.

–SECREP–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12756 of this title.

–FOOTNOTE–

(1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 12709 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12709. Energy efficiency standards

–STATUTE–

(a) Establishment

(1) In general

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than 1 year after October 24, 1992, jointly establish, by rule, energy efficiency standards for –

(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.]; and

(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

(2) Contents

Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code, 1992 (hereafter in this section referred to as "CABO Model Energy Code, 1992"), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (hereafter in this section referred to as "ASHRAE Standard 90.1-1989"), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

(b) Model Energy Code

If the Secretaries have not, within 1 year after October 24, 1992, established energy efficiency standards under subsection (a) of this section, all new construction of housing specified in such subsection shall meet the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1-1989.

(c) Revisions of Model Energy Code

If the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, ASHRAE Standard 90.1-1989, are

revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) of this section to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 109, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102–486, title I, Sec. 101(c)(1), Oct. 24, 1992, 106 Stat. 2786.)

–REFTEXT–

#### REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(1)(A), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. which is classified principally to chapter 13 (Sec. 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Housing Act of 1949, referred to in subsec. (a)(1)(B), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (Sec. 1471 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

–MISC1–

#### AMENDMENTS

1992 – Pub. L. 102–486 amended section generally. Prior to amendment, section read as follows: "The Secretary of Housing and Urban Development shall, not later than one year after November 28, 1990, promulgate energy efficiency standards for new construction of public and assisted housing and single–family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost–effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low–income housing organizations, and other parties designated by the Secretary."

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8013, 12745 of this title; title 12 section 1701q; title 38 section 3704.

–End–

–CITE–

42 USC Sec. 12710 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

## SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12710. Capacity study

–STATUTE–

(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.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 110, Nov. 28, 1990, 104 Stat. 4093;

Pub. L. 102–550, title IV, Sec. 407, Oct. 28, 1992, 106 Stat.

3778.)

–REFTEXT–

#### 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.

–MISC1–

#### 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."

–CHANGE–

#### 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.

–End–

–CITE–

42 USC Sec. 12711 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12711. Protection of State and local authority

–STATUTE–

Notwithstanding any other provision of this subchapter or subchapter II of this chapter, 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.

–SOURCE–

(Pub. L. 101–625, title I, Sec. 111, Nov. 28, 1990, 104 Stat.

4093.)

–End–

–CITE–

42 USC Sec. 12712 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12712. 5–year energy efficiency plan

–STATUTE–

(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) of this section 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) of this section to the Congress (as provided in subsection (d) of this section). 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) of this section and any updated plans under subsection (c) of this section to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

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

–COD–

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.

–MISC1–

ENERGY EFFICIENT MORTGAGES PILOT PROGRAM

Pub. L. 102–550, title V, Sec. 513, Oct. 28, 1992, 106 Stat. 3786, provided that:

"(a) Establishment of Pilot Program. –

"(1) In general. – Not later than 6 months after the date of

enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development (hereafter referred to as the 'Secretary') shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

"(2) Pilot program. – The pilot program established under this subsection shall include the following criteria, where applicable:

"(A) Origination. – The lender shall originate a housing loan that is insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] in accordance with the applicable requirements.

"(B) Approval. – The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

"(C) Cost of improvements. – The cost of cost-effective energy efficiency improvements shall not exceed the greater of

–

"(i) 5 percent of the property value (not to exceed \$8,000); or

"(ii) \$4,000.

"(3) Authority for mortgagees. – In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority –

"(A) to permit the final loan amount to exceed the loan

limits established under title II of the National Housing Act [12 U.S.C. 1707 et seq.] by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

"(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

"(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

"(4) Promotion of pilot program. – The Secretary shall encourage participation in the energy efficient mortgage pilot program by –

"(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

"(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

"(C) requiring each applicant for a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.]

in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

"(5) Training program. – Not later than 9 months after the date of enactment of this Act [Oct. 28, 1992], the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

"(6) Report. – Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

"(b) Expansion of Program. – Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration

of such period, a report explaining why either expansion would not be practicable.

"(c) Definitions. – For purposes of this section:

"(1) The term 'base loan' means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

"(2) The term 'cost-effective' means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

"(3) The term 'energy efficient mortgage' means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving

construction or improvements, would otherwise have qualified for a base loan.

"(4) The term 'residential building' means any attached or unattached single family residence.

"(d) Rule of Construction. – This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

"(e) Regulations. – The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

"(f) Authorization of Appropriations. – There are authorized to be appropriated such sums as may be necessary to carry out this section."

Similar provisions were contained in Pub. L. 102-486, title I, Sec. 106, Oct. 24, 1992, 106 Stat. 2792.

#### ENERGY ASSESSMENT REPORT

Section 944 of Pub. L. 101-625 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

Section 946 of Pub. L. 101–625, as amended by Pub. L. 102–486, title I, Sec. 105(b), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102–550, title IX, Sec. 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

Section 961 of Pub. L. 101–625 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.

–End–

–CITE–

42 USC Sec. 12713 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

Sec. 12713. Eligibility under first–time homebuyer programs

–STATUTE–

(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.

–SOURCE–

(Pub. L. 101–625, title IX, Sec. 956, Nov. 28, 1990, 104 Stat.

4421.)

–COD–

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.

–End–

–CITE–

42 USC Sec. 12714 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I – GENERAL PROVISIONS AND POLICIES

–HEAD–

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

–MISC1–

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

EFFECTIVE DATE OF REPEAL

Section 404(a) of Pub. L. 104–99 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, Sec. 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, Sec. 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.

–End–

–CITE–

42 USC SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–HEAD–

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–SECREf–

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1437d, 1437f, 1439, 3535, 4852, 5305, 12704, 12705, 12706, 12708, 12711 of this title; title 12 sections 1441a, 1831q, 1834a; title 25 section 4183; title 26 section 42.

–End–

–CITE–

42 USC Sec. 12721 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–HEAD–

Sec. 12721. Findings

–STATUTE–

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;
- (3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;
- (4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;
- (5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;
- (6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;
- (7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to –

- (A) expand the supply of rental housing that is affordable to very low-income and low-income families,
- (B) improve homeownership opportunities for low-income families,
- (C) carry out comprehensive housing strategies tailored to local housing market conditions, and
- (D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;
- (8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;
- (9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;
- (10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;
- (11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the

production and rehabilitation of affordable housing in

communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 202, Nov. 28, 1990, 104 Stat. 4094.)

–REFTEXT–

#### REFERENCES IN TEXT

The Housing Act of 1949, referred to in par. (1), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (Sec. 1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The Housing and Urban Development Act of 1968, referred to in

par. (1), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, as amended. For complete classification of this Act to the Code, see Short Title of 1968 Amendments note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Tax Reform Act of 1986, referred to in par. (3), is Pub. L. 99–514, Oct. 22, 1986, 100 Stat. 2085, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

–MISC1–

#### SHORT TITLE

For short title of this subchapter as the "HOME Investment Partnerships Act", see Short Title note set out under section 12701 of this title.

–End–

–CITE–

42 USC Sec. 12722 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–HEAD–

Sec. 12722. Purposes

–STATUTE–

The purposes of this subchapter are –

(1) to expand the supply of decent, safe, sanitary, and

affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed –

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate

throughout the United States to achieve the prudent and efficient use of funds made available under this subchapter;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 203, Nov. 28, 1990, 104 Stat. 4095.)

–End–

–CITE–

42 USC Sec. 12723 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–HEAD–

Sec. 12723. Coordinated Federal support for housing strategies

–STATUTE–

The Secretary shall make assistance under this subchapter available to participating jurisdictions, through the Office of the Assistant Secretary for Housing–FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this subchapter.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 204, Nov. 28, 1990, 104 Stat.

4096.)

–End–

–CITE–

42 USC Sec. 12724 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–HEAD–

Sec. 12724. Authorization

–STATUTE–

There are authorized to be appropriated to carry out this subchapter \$2,086,000,000 for fiscal year 1993, and \$2,173,612,000 for fiscal year 1994, of which –

(1) not more than \$14,000,000 for fiscal year 1993, and \$25,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 12773 of this title; and

(2) not more than \$11,000,000 for fiscal year 1993, and \$22,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under part C of this subchapter.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 205, Nov. 28, 1990, 104 Stat.

4096; Pub. L. 102–550, title II, Sec. 201, Oct. 28, 1992, 106 Stat.

3751; Pub. L. 103–120, Sec. 5, Oct. 27, 1993, 107 Stat. 1148.)

–MISC1–

#### AMENDMENTS

1993 – Pub. L. 103–120 substituted "\$25,000,000 for fiscal year 1994" for "\$14,000,000 for fiscal year 1994" in par. (1) and "\$22,000,000 for fiscal year 1994" for "\$11,000,000 for fiscal year 1994" in par. (2).

1992 – Pub. L. 102–550 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to carry out this subchapter \$1,000,000,000 for fiscal year 1991, and \$2,086,000,000 for fiscal year 1992, of which – "(1) not more than \$14,000,000 for fiscal year 1991, and \$14,000,000 for fiscal year 1992, shall be for community housing partnership activities authorized under section 12773 of this title; and "(2) not more than \$11,000,000 for fiscal year 1991, and \$11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under part C of this subchapter."

–SECREf–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12746, 12747 of this title.

–End–

–CITE–

42 USC Sec. 12725 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

–HEAD–

Sec. 12725. Notice

–STATUTE–

The Secretary shall issue regulations to implement the provisions of this subchapter after notice and an opportunity for comment pursuant to section 553 of title 5. Such regulations shall become effective not later than 180 days after November 28, 1990.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 206, Nov. 28, 1990, 104 Stat. 4096.)

–End–

–CITE–

42 USC Part A – HOME Investment Partnerships 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

PART A – HOME INVESTMENT PARTNERSHIPS

–SECREf–

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 12771 of this title.

–End–

–CITE–

42 USC Sec. 12741 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12741. Authority

–STATUTE–

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this part.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 211, Nov. 28, 1990, 104 Stat.

4096.)

–End–

–CITE–

42 USC Sec. 12742 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12742. Eligible uses of investment

–STATUTE–

(a) Housing uses

(1) In general

Funds made available under this part may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this part, the term "affordable housing" includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

(2) Preference to rehabilitation

A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that –

(A) such rehabilitation is not the most cost effective way to

meet the jurisdiction's need to expand the supply of affordable housing; and

(B) the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 12753(2) of this title.

(3) Tenant-based rental assistance

(A) In general

A participating jurisdiction may use funds provided under this part for tenant-based rental assistance only if –

(i) the jurisdiction certifies that the use of funds under this part for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 1437d(c)(4)(A) (!1) of this title.

(B) Fair share not affected

A jurisdiction's section 8 [42 U.S.C. 1437f] fair share allocation shall be unaffected by the use of assistance under this subchapter.

(C) 24-month contracts

Rental assistance contracts made available with assistance under this subchapter shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) Use of section 1437f assistance

In any case where assistance under section 1437f of this title becomes available to a participating jurisdiction, recipients of rental assistance under this subchapter shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subchapter. A rental assistance program under this subchapter shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(E) Security deposit assistance

A jurisdiction using funds provided under this part for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

(4) Redesignated (3)

(5) Lead-based paint hazards

A participating jurisdiction may use funds provided under this part for the evaluation and reduction of lead-based paint hazards, as defined in section 4851b of this title.

(b) Investments

Participating jurisdictions shall have discretion to invest funds made available under this part as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subchapter. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) Administrative costs

In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this part to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this part, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this part.

(d) Prohibited uses

Funds made available under this part may not be used to –

- (1) defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c) of this section,
- (2) provide tenant-based rental assistance for the special

purposes of the existing section 8 [42 U.S.C. 1437f] program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 1437f of this title,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 1437g of this title,

(5) carry out activities authorized under section 1437g(d)(1)

(1) of this title, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.].

(e) Cost limits

(1) In general

The Secretary shall establish limits on the amount of funds under this part that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715l(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per

unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

#### (2) Criteria

In calculating per unit limits, the Secretary shall take into account that assistance under this subchapter is intended to –

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions;

(C) facilitate mixed-income housing; and

(D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

#### (3) Consultation

In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(f) Certification of compliance

The requirements of section 3545(d) of this title shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(g) Limitation on operating assistance

A participating jurisdiction may not use more than 5 percent of its allocation under this part for the payment of operating expenses for community housing development organizations.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 212, Nov. 28, 1990, 104 Stat. 4097; Pub. L. 102–550, title II, Secs. 203(a), 204–207(b), (d), title X, Sec. 1012(e), Oct. 28, 1992, 106 Stat. 3752–3754, 3905; Pub. L. 105–276, title V, Sec. 522(b)(5), Oct. 21, 1998, 112 Stat. 2565.)

–REFTEXT–

REFERENCES IN TEXT

Section 1437d(c)(4)(A) of this title, referred to in subsec. (a)(3)(A)(ii), was in the original "section 6(c)(4)(A) of the Housing Act of 1937", and was translated as reading "section 6(c)(4)(A) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

Section 1437g(d)(1) of this title, referred to in subsec. (d)(5), was in the original "section 9(d)(1) of the Housing Act of 1937", and was translated as reading "section 9(d)(1) of the United States

Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (d)(6), is title II of Pub. L. 100–242, Feb. 5, 1988, 102 Stat. 1877, as amended, which was classified principally as a note under section 17151 of Title 12, Banks and Banking. Title II of Pub. L. 100–242, was amended generally by Pub. L. 101–625, title VI, Sec. 601(a), Nov. 28, 1990, 104 Stat. 4249, and is now known as the Low–Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to chapter 42 (Sec. 4101 et seq.) 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.

–MISC1–

#### AMENDMENTS

1998 – Subsec. (d)(5). Pub. L. 105–276 substituted "section 1437g(d)(1)" for "section 14371".

1992 – Subsec. (a)(1). Pub. L. 102–550, Sec. 207(a), inserted "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations," after "or organizations,".

Pub. L. 102–550, Sec. 205, inserted at end "For the purpose of this part, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing."

Subsec. (a)(2). Pub. L. 102–550, Sec. 203(a)(1), struck out "under paragraph (3) of this subsection or" after "authorized" in concluding provisions.

Subsec. (a)(3). Pub. L. 102–550, Sec. 204(b), added cl. (ii) of par. (3)(A) and struck out former cl. (ii) which read as follows: "the tenant–based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences."

Pub. L. 102–550, Sec. 204(a), added subpar. (E).

Pub. L. 102–550, Sec. 203(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which provided for conditions for new construction of housing.

Subsec. (a)(4). Pub. L. 102–550, Sec. 203(a)(3), redesignated par. (4) as (3).

Subsec. (a)(5). Pub. L. 102–550, Sec. 1012(e), added par. (5).

Subsec. (c). Pub. L. 102–550, Sec. 207(b)(3), added subsec. (c).

Former subsec. (c) redesignated (d).

Pub. L. 102–550, Sec. 207(b)(1), inserted before comma at end of par. (1) "that exceed the amount specified under subsection (c) of this section".

Subsec. (d). Pub. L. 102–550, Sec. 207(b)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 102–550, Sec. 206, inserted after first sentence of par.

(1) "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 17151(d)(3)(ii) of title 12, as such limitations may be adjusted in

accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs."

Subsecs. (e), (f). Pub. L. 102-550, Sec. 207(b)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 102-550, Sec. 207(d), added subsec. (g).

#### 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.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 203-207 of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12747, 12772 of this title; title 12 section 4116.

–FOOTNOTE–

(1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 12743 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12743. Development of model programs

–STATUTE–

(a) In general

The Secretary shall –

- (1) in cooperation with participating jurisdictions, government–sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this subchapter;
- (2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;
- (3) assure, insofar as is feasible, the availability of an

appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government–sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this part through third–party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subchapter.

(b) Adoption of programs

Except as provided in section 12753(2) of this title, each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest

additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) Part D programs

The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in part D of this subchapter.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 213, Nov. 28, 1990, 104 Stat.

4100.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12753, 12801 of this title.

–End–

–CITE–

42 USC Sec. 12744 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12744. Income targeting

–STATUTE–

Each participating jurisdiction shall invest funds made available under this part within each fiscal year so that –

(1) with respect to rental assistance and rental units –

(A) not less than 90 percent of (i) the families receiving such rental assistance are families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and

(B) the remainder of (i) the families receiving such rental assistance are households that qualify as low–income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by such households;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low–income families; and

(3) all such funds are invested with respect to housing that

qualifies as affordable housing under section 12745 of this

title.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 214, Nov. 28, 1990, 104 Stat.

4101; Pub. L. 103–233, title II, Sec. 202, Apr. 11, 1994, 108 Stat.

364; Pub. L. 105–276, title V, Sec. 599B(a), Oct. 21, 1998, 112

Stat. 2660.)

–MISC1–

#### AMENDMENTS

1998 – Par. (2). Pub. L. 105–276 struck out "at the time of occupancy or at the time funds are invested, whichever is later" before "; and".

1994 – Par. (1)(A). Pub. L. 103–233, Sec. 202(1), substituted "(i) the families receiving such rental assistance are" for "such funds are invested with respect to dwelling units that are occupied by", ", or" for ", and" before cl. (ii), and added cl. (ii).

Par. (1)(B). Pub. L. 103–233, Sec. 202(2), substituted "(i) the families receiving such rental assistance are" for "such funds are invested with respect to dwelling units that are occupied by" and added cl. (ii).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, Sec. 599B(c), Oct. 21, 1998, 112 Stat.

2660, provided that: "The amendments made by this section [amending this section and section 12745 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45–day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

–SECREf–

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12747, 12802 of this title.

–End–

–CITE–

42 USC Sec. 12745 01/06/03

–EXPCITE–

## TITLE 42 – THE PUBLIC HEALTH AND WELFARE

### CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

#### SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

##### Part A – HOME Investment Partnerships

–HEAD–

Sec. 12745. Qualification as affordable housing

–STATUTE–

(a) Rental housing

(1) Qualification

Housing that is for rental shall qualify as affordable housing under this subchapter only if the housing –

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 1437f of this title, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low–income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low–income families and bearing rents not greater than the gross rent for rent–restricted residential units as determined under section 42(g)(2) of title 26;

(C) is occupied only by households that qualify as low–income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 1437f of this title

because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

(2) Adjustment of qualifying rent

The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) Increases in tenant income

Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.

(4) Mixed-income project

Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) Mixed-use project

Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(6) Waiver of qualifying rent

(A) In general

For the purpose of providing affordable housing appropriate for families described in subparagraph (B), the Secretary may,

upon the application of the project owner, waive the applicability of subparagraph (A) of paragraph (1) with respect to a dwelling unit if –

(i) the unit is occupied by such a family, on whose behalf tenant-based assistance is provided under section 1437f of this title;

(ii) the rent for the unit is not greater than the existing fair market rent for comparable units in the area, as established by the Secretary under section 1437f of this title; and

(iii) the Secretary determines that the waiver, together with waivers under this paragraph for other dwelling units in the project, will result in the use of amounts described in clause (iii) (!1) in an effective manner that will improve the provision of affordable housing for such families.

**(B) Eligible families**

A family described in this subparagraph is a family that consists of at least one elderly person (who is the head of household) and one or more of such person's grand (!2) children, great grandchildren, great nieces, great nephews, or great great grandchildren (as defined by the Secretary), but does not include any parent of such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren. Such term includes any such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren who have been legally adopted by such elderly

person.

(b) Homeownership

Housing that is for homeownership shall qualify as affordable housing under this subchapter only if the housing –

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family –

(A) in the case of a contract to purchase existing housing, at the time of purchase;

(B) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

(C) in the case of a contract to purchase housing to be constructed, at the time the contract is signed;

(3) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to –

(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph

(2), at a price which will –

(i) provide the owner with a fair return on investment,

including any improvements, and

(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

(B) recapture the investment provided under this subchapter in order to assist other persons in accordance with the requirements of this subchapter, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and

(4) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 215, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 102–550, title II, Secs. 208, 209, Oct. 28, 1992, 106 Stat. 3754; Pub. L. 103–233, title II, Sec. 203, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105–276, title V, Sec. 599B(b), Oct. 21, 1998, 112 Stat. 2660; Pub. L. 106–569, title IX, Sec. 904, Dec. 27, 2000, 114 Stat. 3027.)

–REFTEXT–

#### REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1)(E), (3), 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.

–MISC1–

## AMENDMENTS

2000 – Subsec. (a)(6). Pub. L. 106–569 added par. (6).

1998 – Subsec. (b)(2). Pub. L. 105–276 amended par. (2)

generally. Prior to amendment, par. (2) read as follows: "is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;".

1994 – Subsec. (b)(3). Pub. L. 103–233, Sec. 203(a), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "is made available for initial purchase only to first-time homebuyers;".

Subsec. (b)(3)(B). Pub. L. 103–233, Sec. 203(b), substituted "subchapter" for "subsection" after "requirements of this".

Subsec. (b)(4), (5). Pub. L. 103–233, Sec. 203(a)(2), redesignated pars. (4) and (5) as (3) and (4), respectively.

1992 – Subsec. (a)(1)(A). Pub. L. 102–550, Sec. 208(a)(1), substituted "number of bedrooms in the unit" for "smaller and larger families".

Subsec. (a)(1)(E). Pub. L. 102–550, Sec. 208(b), inserted before semicolon ", except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary".

Subsec. (a)(3). Pub. L. 102–550, Sec. 208(a)(2), (3), substituted "the lesser of the amount payable by the tenant under State or local law or" for "not less than" in second sentence and inserted at end "The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low–income housing tax credit by a housing credit agency pursuant to section 42 of title 26."

Subsec. (b)(4). Pub. L. 102–550, Sec. 209, added par. (4) and struck out former par. (4) which read as follows: "is made available for subsequent purchase only –

"(A) to persons who meet the qualifications specified under paragraph (2), and

"(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate –

"(i) to provide the owner with a fair return on investment, including any improvements, and

"(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and".

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–276 made on, and applicable beginning upon, Oct. 21, 1998, see section 599B(c) of Pub. L. 105–276, set out as a note under section 12744 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11,

1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4851b, 12705, 12750 of this title.

-FOOTNOTE-

(1) So in original.

(2) So in original. Probably should be "grandchildren".

-End-

-CITE-

42 USC Sec. 12746 01/06/03

-EXPCITE-

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12746. Participation by States and local governments

–STATUTE–

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

(1) Allocation

Not later than 20 days after funds to carry out this part become available (or, during the first year after November 28, 1990, not later than 20 days after (A) funds to carry out this part are provided in an appropriations Act, or (B) regulations to implement this part are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 12747 of this title and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) Consortia

A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this subchapter if the Secretary determines that the consortium –

(A) has sufficient authority and administrative capability to carry out the purposes of this subchapter on behalf of its

member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) Eligibility

(A) Except as provided in paragraph (10), a jurisdiction receiving a formula allocation under section 12747 of this title shall be eligible to become a participating jurisdiction if its formula allocation is \$750,000 or greater, or if the Secretary finds that –

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this part, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and \$750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this part.

(B) If a jurisdiction has met the requirements of subparagraph

(A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 12747(a)(1) of this title and the amount made available to the jurisdiction under

subparagraph (A)(ii).

#### (4) Notification

If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 12747(d)(1) of this title) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

#### (5) Submission of strategy

Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 12705 of this title.

#### (6) Reallocation

If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 12705(c)(3) of this title, disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the

jurisdiction as follows:

(A) State

If a State has failed to meet the requirements, the Secretary shall –

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 12747(b) of this title.

(B) Local

If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) Direct reallocation

If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall –

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of

general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and (ii) reallocate the remainder in accordance with section 12747(b) of this title.

(D) Certain jurisdictions deemed to be participating jurisdictions

If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) Designation

The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 12705 of this title.

(8) Continuous designation

Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) Revocation

The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if –

- (A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this subchapter, or
- (B) the jurisdiction's allocation falls below \$750,000 for 3 consecutive years, below \$625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of \$500,000 or more in any 1 year, except as provided in paragraph (10).

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 12748 of this title shall be reallocated in accordance with paragraph (6) of this section.

(10) Threshold reduction

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year –

- (A) by substituting "\$500,000" for "\$750,000" both places it appears in paragraph (3); and
- (B) by substituting "\$500,000", "\$410,000", and "\$335,000" for "\$750,000", "\$625,000", and "\$500,000", respectively, where they appear in paragraph (9).

–SOURCE–

(Pub. L. 101–625, title II, Sec. 216, Nov. 28, 1990, 104 Stat.

4103; Pub. L. 102–550, title II, Sec. 202(a), Oct. 28, 1992, 106

Stat. 3751.)

–MISC1–

#### AMENDMENTS

1992 – Par. (3)(A). Pub. L. 102–550, Sec. 202(a)(1), substituted

"Except as provided in paragraph (10), a jurisdiction" for "A jurisdiction".

Par. (9)(B). Pub. L. 102–550, Sec. 202(a)(2), inserted ", except as provided in paragraph (10)" after "in any 1 year".

Par. (10). Pub. L. 102–550, Sec. 202(a)(3), added par. (10).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

#### APPLICABILITY OF GRANT THRESHOLDS

Section 202(c) of Pub. L. 102–550 provided that: "Notwithstanding any other provision of law, the grant thresholds provided for in section 216 [42 U.S.C. 12746], as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston–Gonzalez National Affordable Housing Act [42 U.S.C. 12747(b)], as amended by this section, shall apply."

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12704, 12747, 12750 of this title.

–End–

–CITE–

42 USC Sec. 12747 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12747. Allocation of resources

–STATUTE–

(a) In general

(1) States and units of general local government

After reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this subchapter by formula as provided in subsection (b) of this section. Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

(2) Repealed. Pub. L. 104–330, title V, Sec. 505(a)(1)(B), Oct. 26, 1996, 110 Stat. 4044

(3) (!1) Insular areas

For each fiscal year, of any amounts approved in appropriation Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or

(B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.

(b) Formula allocation

(1) In general

(A) Basic formula

The Secretary shall establish in (!2) regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction (!3) for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 12742 of this title without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(B) Source of data

The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning

of that fiscal year.

(C) Use of basic formula

The basic formula established under subparagraph (A) shall be used for all formula allocations and reallocations provided for in this part.

(D) Weights

When allocation is made among States, the Secretary shall apply the formula in subparagraph (A) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 12746(1) of this title.

(E) Adjustments

In developing the basic formula in subparagraph (A), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this part to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this part that appropriately reflects the housing need in each region of the Nation.

(F) Consultation

The Secretary shall develop the formula in subparagraph (A) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance

and Urban Affairs of the House of Representatives, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall 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 copy of the formula the Secretary intends to propose.

(2) Minimum State allocation

(A) In general

If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than \$3,000,000 to any State, the allocation for such State shall be \$3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) Increased minimum allocation

If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by \$500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro

rata deduction shall not reduce the allocation of any unit of general local government below \$500,000.

(3) Minimum local allocation

The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 12746(2) of this title so that, when all such funds are initially allocated by formula, jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations, except as provided in paragraph (4).

(4) Threshold reduction

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year by substituting "\$335,000" for "\$500,000" where it appears in paragraph (3).

(c) Criteria for direct reallocation

The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other

eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this subchapter.

The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account –

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this subchapter through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that –

(A) direct funds made available under this part to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 12744

of this title, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 1437f of this title to the selection of tenants for housing assisted under this part;

(C) provide matching resources in excess of funds required under section 12750 of this title; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that

–

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 12705(b)(4) of this title may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that

are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) Reallocations

(1) In general

The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration.

Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 12746 of this title.

(2) Commitments

The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this subchapter, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) Limitation

Unless otherwise specified in this part, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local

government shall be made only among all participating units of general local government.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 217, Nov. 28, 1990, 104 Stat. 4105; Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 102–230, Sec. 1, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102–273, Sec. 1, Apr. 21, 1992, 106 Stat. 113; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1581; Pub. L. 102–550, title II, Secs. 202(b), 203(b), 211(a)(2), Oct. 28, 1992, 106 Stat. 3751, 3752, 3756; Pub. L. 104–330, title V, Sec. 505(a)(1), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 105–65, title II, Sec. 214, Oct. 27, 1997, 111 Stat. 1366.)

–MISC1–

#### AMENDMENTS

1997 – Subsec. (b)(3). Pub. L. 105–65, in first sentence, substituted "jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation" for "only those jurisdictions that are allocated an amount of \$500,000 or greater shall receive an allocation".

1996 – Subsec. (a)(1). Pub. L. 104–330, Sec. 505(a)(1)(A), struck out "reserving amounts under paragraph (2) for Indian tribes and after" after "After".

Subsec. (a)(2). Pub. L. 104–330, Sec. 505(a)(1)(B), struck out heading and text of par. (2). Text read as follows: "For each

fiscal year, of the amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

1992 – Subsec. (a)(1). Pub. L. 102–550, Sec. 211(a)(2)(A), added first sentence and struck out former first sentence which read as follows: "After reserving amounts for Indian tribes as required by paragraph (2) of this subsection and after reserving amounts for the insular areas under paragraph (3), the Secretary shall allocate funds approved in an appropriations Act to carry out this subchapter by formula as provided in subsection (b) of this section."

Pub. L. 102–389 made identical amendment to those made by Pub. L. 102–229 and Pub. L. 102–230, Sec. 1(1). See 1991 Amendment note below.

Subsec. (a)(3). Pub. L. 102–550, Sec. 211(a)(2)(D), and Pub. L. 102–389 both added new pars. (3) related to insular areas. The text reflects the par. (3) added by Pub. L. 102–550. The par. (3) added by Pub. L. 102–389 read as follows: "For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular

areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Pub. L. 102-550, Sec. 211(a)(2)(C), struck out par. (3), as added by Pub. L. 102-230, Sec. 1(2), which read as follows:

"(A) In general. – For each fiscal year, of any amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to the insular areas an amount that reflects –

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B) of this section.

"(B) Specific criteria. – The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) Transitional provisions. – For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 12746(6)(A) of this

title."

Pub. L. 102–550, Sec. 211(a)(2)(B), struck out par. (3), as added by Pub. L. 102–229, which read as follows: "For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.5 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Subsec. (b)(1)(A). Pub. L. 102–550, Sec. 203(b)(1), (6), redesignated subpar. (B) as (A) and struck out former subpar. (A) which provided for a formula for allocation of funds for production of affordable rental housing through new construction or substantial rehabilitation.

Pub. L. 102–273 added cl. (iii) reading as follows:

"Notwithstanding clauses (i) and (ii), any jurisdiction receiving amounts made available under such clause may, at the discretion of the jurisdiction, use such amounts for other eligible uses in accordance with section 12742 of this title if the jurisdiction determines that such use will better meet the housing needs within the jurisdiction. This clause shall be effective only with respect to funds provided under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 744), which

suspends the requirement of contributions by participating jurisdictions, and shall become ineffective if such requirement is reimposed."

Subsec. (b)(1)(B), (C). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpars. (C) and (D) as (B) and (C), respectively.

Former subpar. (B) redesignated (A).

Subsec. (b)(1)(D). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 102-550, Sec. 203(b)(2), substituted "The basic formula established under subparagraph (A)" for "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)".

Subsec. (b)(1)(E). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 102-550, Sec. 203(b)(3), substituted "formula in subparagraph (A)" for "formulas in subparagraph (B)".

Subsec. (b)(1)(F). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Pub. L. 102-550, Sec. 203(b)(4), substituted "basic formula in subparagraph (A)" for "basic formula in subparagraph (B)" and struck out at end "If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction's allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations

were made according to the formula under subparagraph (B) alone."

Subsec. (b)(1)(G). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (G) as (F).

Pub. L. 102-550, Sec. 203(b)(5), substituted "formula in subparagraph (A)" for "formulas in subparagraphs (A) and (B)".

Subsec. (b)(3). Pub. L. 102-550, Sec. 202(b)(1), inserted before period at end ", except as provided in paragraph (4)".

Subsec. (b)(4). Pub. L. 102-550, Sec. 202(b)(2), added par. (4).

1991 – Subsec. (a)(1). Pub. L. 102-229 and Pub. L. 102-230, Sec. 1(1), amended par. (1) identically, inserting before first comma "and after reserving amounts for the insular areas under paragraph (3)".

Subsec. (a)(3). Pub. L. 102-229 and Pub. L. 102-230, Sec. 1(2), which were enacted on the same day, both added new pars. (3) relating to insular areas.

–CHANGE–

#### 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.

–MISC2–

#### EFFECTIVE DATE OF 1996 AMENDMENT

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.

Section 505(b) of Pub. L. 104–330 provided that: "The amendments under subsection (a) [amending this section and section 12838 of this title] shall apply with respect to amounts made available for assistance under title II of the Cranston–Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] for fiscal year 1998 and fiscal years thereafter."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 211(a)(2) of Pub. L. 102–550 applicable with respect to fiscal year 1993 and thereafter, see section 211(b) of Pub. L. 102–550, set out as a note under section 12704 of this title.

Amendment by sections 202(b) and 203(b) of Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

#### APPLICABILITY OF GRANT THRESHOLDS

Grant thresholds provided for in subsec. (b) of this section as

amended by Pub. L. 102–550 to apply notwithstanding any other provision of law, see section 202(c) of Pub. L. 102–550, set out as a note under section 12746 of this title.

#### EXPEDITED ISSUANCE OF REGULATION

Section 211(a)(3) of Pub. L. 102–550 provided that: "The regulation referred to in the amendment made by paragraph (2)(D) [amending this section] shall take effect not later than the expiration of the 90–day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act [42 U.S.C. 3535(o)]."

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12746, 12748, 12749, 12771, 12831 of this title.

–FOOTNOTE–

(1) See 1992 Amendment note below.

(2) So in original. Probably should be "by".

(3) So in original. Probably should be "jurisdictions".

–End–

–CITE–

42 USC Sec. 12748 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 130 – NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II – INVESTMENT IN AFFORDABLE HOUSING

Part A – HOME Investment Partnerships

–HEAD–

Sec. 12748. HOME Investment Trust Funds

–STATUTE–

(a) Establishment

The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 12749(c) of this title) for use solely to invest in affordable housing within the participating jurisdiction's boundaries or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this part.

(b) Line of credit

The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include –

- (1) funds allocated or reallocated to the participating jurisdiction under section 12747 of this title, and
- (2) any payment or repayment made pursuant to section 12749 of this title.

(c) Reductions

A participating jurisdiction's line of credit shall be reduced by

–

- (1) funds drawn from the HOME Investment Trust Fund by the

participating jurisdiction,

(2) funds expiring under subsection (g) of this section, and

(3) any penalties assessed by the Secretary under section 12754

(!1) of this title.

(d) Certification

A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this subchapter. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) Investment within 15 days

The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) No interest or fees

The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) Expiration of right to draw funds

If any funds becoming available to a participating jurisdiction under this subchapter are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME

Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 12747(d) of this title.

(h) Administrative provision

The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

–SOURCE–

(Pub. L. 101–625, title II, Sec. 218, Nov. 28, 1990, 104 Stat. 4109; Pub. L. 102–550, title II, Secs. 203(c), 221, Oct. 28, 1992, 106 Stat. 3752, 3762.)

–MISC1–

AMENDMENTS

1992 – Subsec. (a). Pub. L. 102–550, Sec. 221, inserted "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions" after "boundaries".

Subsec. (g). Pub. L. 102–550, Sec. 203(c), substituted "If" for "Except as provided in section 12747(b)(1)(A)(ii) of this title, if".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub.

L. 102-550, set out as a note under section 12704 of this title.

~~-SECRET-~~

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12746 of this title.

~~-FOOTNOTE-~~

(!1) So in original. Probably should be section "12753".

~~-End-~~