Public Law 101-235
101st Congress

An Act

To amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes.

Dec. 15, 1989
[H.R. 1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Housing and Urban Development Reform Act of 1989.
42 USC 3531 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Housing and Urban Development Reform Act of 1989".

(b) TABLE OF CONTENTS.—

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TITLE I—REFORMS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subtitle A—Ethics

SEC. 101. ALLOCATION OF HOUSING ASSISTANCE.

42 USC 1439.

Regulations. State and local governments.

(a) ASSISTANCE SUBJECT TO FORMULA ALLOCATION.—Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(d)(1)(A) Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) the first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is

based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1), the Secretary shall apply the formula, to the extent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents.

Aged persons.

"(B) The formula allocation requirements of subparagraph (A) shall not apply to—

"(i) assistance that is approved in appropriation Acts for use under sections 9 or 14, or the rental rehabilitation grant program under section 17, of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 with respect to such assistance; or

"(ii) other assistance referred to in subsection (a) that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public and Indian housing, and assistance in support of the property disposition and loan management functions of the Secretary.

Contracts.
Indians.

"(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

"(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.".

(b) ALLOCATION TO NONMETROPOLITAN AREAS.—The second sentence of section 213(d)(2) of the Housing and Community Development Act of 1974 is amended by striking "such assistance" and inserting "the assistance that is subject to allocation under paragraph (1)(A)".

42 USC 1439.

(c) COMPETITION FOR ASSISTANCE.—Section 213(d) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula contained in that paragraph and then is reserved and obligated pursuant to a competition.

"(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria for the selection of recipients of assistance. The criteria shall be contained in—

Regulations.

"(i) a regulation promulgated by the Secretary after notice and public comment; or

Federal Register, publication.

"(ii) to the extent authorized by law, a notice published in the Federal Register.

"(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

"(D) This paragraph shall not apply to assistance referred to in paragraph (4).".

Contracts. 42 USC 1437aa note.

(d) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), and (c) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

42 USC 1439.

(e) CONFORMING AMENDMENT.—Section 213(a)(1) of the Housing and Community Development Act of 1974 is amended by striking "section 235 or 236 of the National Housing Act,".

42 USC 3545.

SEC. 102. HUD ACCOUNTABILITY.

Federal Register, publication.

(a) NOTICE REGARDING ASSISTANCE.—

(1) PUBLICATION OF NOTICE OF AVAILABILITY.—The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary.

(2) PUBLICATION OF APPLICATION PROCEDURES.—The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be designed to help eligible applicants to apply for such assistance.

(3) PUBLICATION OF SELECTION CRITERIA.—Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Subject to section 213 of the Housing and Community Development Act of 1974, such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) DOCUMENTATION OF DECISIONS.—

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or

allocation was made or denied. The preceding sentence shall apply to—

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

State and local governments.

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

(C)(i) The Secretary shall notify the public of all funding decisions made by the Department. The Secretary shall require any State or unit of general local government to notify the public of the award or allocation of such funding to subsequent recipients. The notification shall include the following elements for each funding decision:

State and local governments.

(I) the name and address of each funding recipient;

(II) the name or other means of identifying the project, activity, or undertaking for each funding recipient;

(III) the dollar amount of the funding for each project, activity, or undertaking;

(IV) the citation to the statutory, regulatory, or other criteria under which the funding decision was made; and

(V) such additional information as the Secretary deems appropriate for a clear and full understanding of the funding decision.

(ii) The notification referred to in clause (i) of this subsection shall be published as a Notice in the Federal Register at least quarterly.

(iii) For purposes of this subparagraph, the term 'funding decision' means the decision of the Secretary to make available grants, loans, or any other form of financial assistance to an individual or to an entity, including (but not limited to) a State or local government or agency thereof (including a public housing agency), an Indian tribe, or a nonprofit organization, under any program administered by the Department that provides, by statute, regulation, or otherwise, for the competitive distribution of financial assistance.

(D) The Secretary shall publish a notice in the Federal Register at least annually informing the public of the allocation of assistance under section 213(d)(1)(A) of the Housing and Community Development Act of 1974.

(E) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B), including each letter of support, is readily available for public inspection for a period of not less than 5 years, beginning not less than 30 days following the date on which the award or allocation is made.

Public information.

(5) EMERGENCY EXCEPTION.—The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for appropriate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

State and local governments.

(b) DISCLOSURES BY APPLICANTS.—The Secretary shall require the disclosure of information with respect to any application for assistance within the jurisdiction of the Department for a project application submitted to the Secretary or to any State or unit of general local government by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance within the jurisdiction of the Department in excess of $200,000 in the aggregate during any fiscal year or such lower amount as the Secretary may establish by regulation. Such information shall include the following:

(1) OTHER GOVERNMENT ASSISTANCE.—Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) INTERESTED PARTIES.—The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

Reports.

(3) EXPECTED SOURCES AND USES.—A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) UPDATING OF DISCLOSURE.—During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) LIMITATION OF ASSISTANCE.—The Secretary shall certify that assistance within the jurisdiction of the Department to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance described in subsection (b)(1). The Secretary shall adjust the amount of assistance awarded or allocated to an applicant to compensate in whole or in part, as the Secretary determines to be appropriate, for any changes reported under subsection (c).

(e) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b) or (c) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(C) recapture any funds that have been disbursed;

(D) permit the violating applicant selected to continue to participate in the program; or

(E) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this subsection.

Federal Register, publication.

(f) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any person knowingly and materially violates any provision of subsection (b) or (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this section. This penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

(g) AGENCY PROCEDURES.—(1) The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (f). These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity to make the determination;

(B) shall provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order, the determination or order shall be final.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (f), consideration shall be given to such factors as the gravity of the offense, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(3) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under subsection (f) shall not be subject to review, except as provided in subsection (h).

(h) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (g)(1), a person against whom the Secretary has imposed a civil money penalty under subsection (f) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (g)(1)(A) in the appropriate court of appeals of the United States, by filing

in such court, within 20 days after the entry of such order or determination, a written petition praying that the order or determination of the Secretary be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (g)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(i) ACTION TO COLLECT THE PENALTY.—If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (f), after the determination or order is no longer subject to review as provided by subsections (g)(1) and (h), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(j) SETTLEMENT BY THE SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(k) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(l) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this section into miscellaneous receipts of the Treasury.

(m) DEFINITIONS.—For the purpose of this section—

(1) The term "Department" means the Department of Housing and Urban Development.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

(3) The term "person" means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

(4) The term "assistance within the jurisdiction of the Department" includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(5) The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(n) EFFECTIVE DATE.—This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment.

SEC. 103. PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS.

The Department of Housing and Urban Development Act is amended by adding at the end the following new section:

"PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS

"SEC. 12. (a) PROHIBITED ACTIONS.—During any selection process, no officer or employee of the Department of Housing and Urban Development shall knowingly disclose any covered selection information regarding such selection, directly or indirectly, to any person other than a person authorized by the Secretary to receive such information. 42 USC 3537a.

"(b) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) has occurred, the Secretary shall—

"(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

"(2) in the case of a selection that has been made, determine whether to—

"(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

"(B) impose sanctions upon the violating applicant selected, subject to review and determination on the record after opportunity for a hearing;

"(C) permit the violating applicant selected to continue to participate in the program; or

"(D) take any other actions that the Secretary considers appropriate.

"(c) CIVIL MONEY PENALTIES.—

"(1) IN GENERAL.—Whenever any employee of the Department knowingly and materially violates the prohibition in subsection (a), the Secretary may impose a civil money penalty on the employee in accordance with the provisions of this subsection. This penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary takes other disciplinary actions.

"(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

"(3) AGENCY PROCEDURES.—

"(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection. The standards and procedures—

"(i) shall provide for the Secretary or other official of the Department to make the determination to impose a penalty or to use an administrative entity to make the determination;

"(ii) shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record; and

"(iii) may provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

"(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable order. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(C) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under paragraph (2), consideration shall be given to such factors as the gravity of the offense, any history of prior disclosures of information on pending funding decisions made after the date of enactment of this section, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(D) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (4).

"(4) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(A) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under paragraph (3)(A), an employee against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under paragraph (3)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(B) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (3)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(C) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(D) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have

the power to order payment of the penalty imposed by the Secretary.

"(5) ACTION TO COLLECT PENALTY.—If any employee fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (3)(A) and (4), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the employee and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(6) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

"(7) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

"(d) CRIMINAL PENALTIES.—Whoever willfully violates subsection (a) by making a disclosure prohibited by subsection (a) to any applicant, or any officer, employee, representative, agent, or consultant of any applicant, shall be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(e) DEFINITIONS.—For purposes of this section:

"(1) APPLICANT.—The term 'applicant' means any applicant or candidate that is being considered for receiving assistance.

"(2) ASSISTANCE.—The term 'assistance' means any grant, loan, subsidy, guarantee, or other financial assistance under a program administered by the Secretary that provides by statute, regulation, or otherwise for the competitive distribution of such assistance. The term does not include any mortgage insurance provided under a program administered by the Secretary.

"(3) COVERED SELECTION INFORMATION.—The term 'covered selection information' means—

"(A) any information that is contained in any application or request for assistance, or any information regarding the decision of the Secretary to make available assistance or other information that is determined by the Secretary to be information that is not generally available to the public (not including program requirements and timing of the decision to make assistance available); and

"(B) any information that is required by statute, regulation, or order to be confidential.

"(4) KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(5) SELECTION.—The term 'selection' means the determination of which applicants for assistance are to receive assistance under the program.

"(6) SELECTION PROCESS.—The term 'selection process' means the period with respect to a selection for assistance that begins with the development, preparation, and issuance of a solicitation or request for applications for the assistance and concludes

with the selection of recipients of assistance, and includes the evaluation of applications.

"(f) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(g) APPLICABILITY.—This section shall apply only with respect to violations that occur on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.".

SEC. 104. REFORM OF HEADQUARTERS RESERVE.

42 USC 1439.

(a) FUNDING CATEGORIES.—Section 213(d)(4) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(4)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

Disaster assistance.

"(i) unforeseen housing needs resulting from natural and other disasters;

"(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

"(iii) housing needs resulting from the settlement of litigation; and

Desegregation.

"(iv) housing in support of desegregation efforts.

"(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1).".

42 USC 1439 note.

(b) EFFECTIVE DATE.—Any assistance made available under section 213(d)(4) of the Housing and Community Development Act of 1974 before October 1, 1990, or pursuant to a commitment for such assistance entered into before such date, shall be governed by the provisions of section 213(d)(4) as such section existed before the date of the enactment of this Act.

Contracts.
42 USC 1437aa note.

(c) INDIAN HOUSING.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by subsection (a) and the provisions of subsection (b) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

SEC. 105. REFORM OF CDBG DISCRETIONARY FUND AND PROVISION OF TECHNICAL ASSISTANCE.

42 USC 5307.

(a) SPECIAL PURPOSE GRANTS.—Section 107(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "in a special discretionary fund" in the first sentence; and

(2) by striking all that follows the period at the end of the second sentence.

(b) AUTHORIZED USES.—Section 107(b) of the Housing and Community Development Act of 1974 is amended—

(1) by striking paragraphs (1) and (3);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon;

(3) by redesignating paragraphs (2) and (5) (as amended) as paragraphs (1) and (2), respectively; and

(4) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) to historically Black colleges; and"; and

Schools and colleges.

(5) in paragraph (4)—

(A) by striking "and" after the third semicolon and all that follows through "and" after the fourth semicolon; and

(B) by striking "and" at the end and inserting the following: "for purposes of this paragraph the term 'technical assistance' means the facilitating of skills and knowledge in planning, developing, and administering activities under this title in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under this title; except that any recipient of a grant under this paragraph that provides technical assistance pursuant to this paragraph shall provide for the notification of the availability of such assistance and shall have specific criteria for selection of recipients of such assistance that are published and publicly available.".

(c) FUNDING CRITERIA.—Section 107 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

42 USC 5307.

"(f) Any grant made under this section shall be made pursuant to criteria for selection of recipients of such grants that the Secretary shall by regulation establish and which the Secretary shall publish together with any notification of availability of amounts under this section.".

Grants. Regulations.

(d) APPLICABILITY.—

42 USC 5307 note. Grants.

(1) IN GENERAL.—Except as provided in this paragraph and paragraph (2), the amendments made by this section shall apply with respect to any grants made under section 107 of the Housing and Community Development Act of 1974 on or after the date of the enactment of this Act, except a grant made under the third sentence of section 107(a) of Housing and Community Development Act of 1974, as such sentence existed immediately before such date, and grants for specific activities (referred to in House Report Number 101-297) pursuant to the amount appropriated for use under section 107 by the enactment of the bill, H.R. 2916, of the One Hundred First Congress.

(2) PRIOR GRANTS.—Any grant made under section 107 of the Housing and Community Development Act of 1974 before the date of the enactment of this Act or pursuant to a grant award notification made before such date shall be governed by the provisions of such section as it existed immediately before the date of the enactment of this Act.

(e) CONFORMING AMENDMENT.—The section heading of section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"SPECIAL PURPOSE GRANTS".

SEC. 106. WAIVER OF REGULATION REQUIREMENTS AND HANDBOOK PROVISIONS.

42 USC 3535.

Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection:

"(q)(1) Any waiver of regulations of the Department shall be in writing and shall specify the grounds for approving the waiver.

"(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.

Federal Register, publication.

"(3) The Secretary shall notify the public of all waivers of regulations approved by the Department. The notification shall be included in a notice in the Federal Register published not less than quarterly. Each notification shall cover the period beginning on the day after the last date covered by the prior notification, and shall—

"(A) identify the project, activity, or undertaking involved;

"(B) describe the nature of the requirement that has been waived and specify the provision involved;

"(C) specify the name and title of the official who granted the waiver request;

"(D) include a brief description of the grounds for approval of the waiver; and

"(E) state how more information about the waiver and a copy of the request and the approval may be obtained.

"(4) Any waiver of a provision of a handbook of the Department shall—

"(A) be in writing;

"(B) specify the grounds for approving the waiver; and

Public information.

"(C) be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.".

Loans.

SEC. 107. CIVIL MONEY PENALTIES AGAINST MORTGAGEES AND LENDERS.

(a) IN GENERAL.—Title V of the National Housing Act is amended by adding at the end the following new section:

"CIVIL MONEY PENALTIES AGAINST MORTGAGEES AND LENDERS

12 USC 1735f-14.

"SEC. 536. (a) IN GENERAL.—

"(1) AUTHORITY.—Whenever a mortgagee approved under this Act, or a lender holding a contract of insurance under title I of this Act, knowingly and materially violates any of the provisions of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by any particular mortgagee or lender during any 1-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) shall constitute a separate violation with respect to each mortgage or loan application. In the case of a

continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

"(1) VIOLATIONS.—The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a mortgagee or lender, as follows:

"(A) Except where expressly permitted by statute, regulation, or contract approved by the Secretary, transfer of a mortgage insured under this Act to a mortgagee not approved by the Secretary, or transfer of a loan to a transferee that is not holding a contract of insurance under title I of this Act.

"(B) Failure of a nonsupervised mortgagee, as defined by the Secretary—

"(i) to segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments, and insurance premiums; or

"(ii) to deposit these funds in a special account with a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations, or by the National Credit Union Administration.

"(C) Use of escrow funds for any purpose other than that for which they were received.

"(D) Submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act.

"(E) With respect to an officer, director, principal, or employee—

"(i) hiring such an individual whose duties will involve, directly or indirectly, programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary; or

"(ii) retaining in employment such an individual who continues to be involved, directly or indirectly, in programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary.

"(F) Falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity.

"(G) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to—

"(i) the application of a mortgagee or lender for approval by the Secretary; or

"(ii) the notification by a mortgagee or lender to the Secretary concerning establishment of a branch office.

"(H) Violation of any provisions of title I, II, or X (as such title existed immediately before the effective date of the Department of Housing and Urban Development Reform Act of 1989) of this Act or any implementing regulation or handbook that is issued under this Act.

"(2) NOTIFICATION TO ATTORNEY GENERAL.—Before taking action to impose a civil money penalty for a violation under

paragraph (1)(D) or paragraph (1)(F), the Secretary shall inform the Attorney General of the United States.

"(c) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). These standards and procedures—

"(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity (such as the Mortgagee Review Board, established pursuant to section 202(c) of the National Housing Act) to make the determination;

"(B) shall provide for the imposition of a penalty only after the mortgagee or lender has been given an opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including those before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), a mortgagee or lender against whom the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's determination or order be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the

hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of the additional evidence.

"(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(e) ACTION TO COLLECT PENALTY.—If any mortgagee or lender fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagee or lender and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(h) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(i) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the appropriate insurance fund or funds established under this Act, as determined by the Secretary.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to— 12 USC 1735f-14 note.

(1) violations referred to in the amendment that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date.

SEC. 108. CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS. Loans.

(a) IN GENERAL.—Title V of the National Housing Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new section:

"CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS

"SEC. 537. (a) IN GENERAL.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the 12 USC 1735f-15.

Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements.

"(b) PENALTY FOR VIOLATION OF AGREEMENT AS CONDITION OF TRANSFER OF PHYSICAL ASSETS, FLEXIBLE SUBSIDY LOAN, CAPITAL IMPROVEMENT LOAN, MODIFICATION OF MORTGAGE TERMS, OR WORKOUT AGREEMENT.—

"(1) AUTHORITY.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this Act, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on that mortgagor in accordance with the provisions of this section.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

"(c) VIOLATIONS OF REGULATORY AGREEMENT FOR WHICH PENALTY MAY BE IMPOSED.—

Real property.

"(1) VIOLATIONS.—The Secretary may also impose a civil money penalty under this section on any mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this Act for any knowing and material violation of the regulatory agreement executed by the mortgagor, as follows:

"(A) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

"(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

"(C) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

"(D) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

"(E) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a

security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

"(F) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

"(G) Payment for services, supplies, or materials which exceeds $500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

"(H) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

"(I) Failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary.

"(J) Failure to furnish the Secretary, by the expiration of the 60-day period beginning on the 1st day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing. The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this subparagraph is due to events beyond the control of the mortgagor.

"(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

"(L) Failure to make promptly all payments due under the note and mortgage, including mortgage insurance premiums, tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

The pay out of surplus cash, as defined by and provided for in the regulatory agreement, shall not constitute a violation of such agreement.

"(2) AMOUNT OF PENALTY.—A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000.

"(d) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

"(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

"(B) shall provide for the imposition of a penalty only after the mortgagor has been given an opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

"(e) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (d)(1), a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(f) ACTION TO COLLECT PENALTY.—If a mortgagor fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(g) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(h) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(i) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(j) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to violations referred to in the amendment that occur on or after the effective date of this section. 12 USC 1735f-15 note.

SEC. 109. CIVIL MONEY PENALTIES AGAINST SECTION 202 MORTGAGORS. Loans.

(a) IN GENERAL.—Title II of the Housing Act of 1959 is amended by inserting after section 202 the following new section:

"CIVIL MONEY PENALTIES AGAINST SECTION 202 MORTGAGORS

"SEC. 202a. (a) IN GENERAL.—The penalties set forth in this section shall be in addition to any other available civil remedy or criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements. 12 USC 1701q-1.

"(b) PENALTY FOR VIOLATION OF AGREEMENT AS CONDITION OF TRANSFER OF PHYSICAL ASSETS, FLEXIBLE SUBSIDY LOAN, CAPITAL IMPROVEMENT LOAN, MODIFICATION OF MORTGAGE TERMS, OR WORKOUT AGREEMENT.—

"(1) IN GENERAL.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage held Real property.

pursuant to section 202, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on the mortgagor in accordance with the provisions of this section.

"(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would incur at a foreclosure sale, or sale after foreclosure, with respect to the property involved.

Real property.

"(c) VIOLATIONS OF REGULATORY AGREEMENT.—

"(1) IN GENERAL.—The Secretary may also impose a civil money penalty on a mortgagor or property that includes 5 or more living units and that has a mortgage held pursuant to section 202 for any knowing and material violation of the regulatory agreement executed by the mortgagor, as follows:

"(A) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

"(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

"(C) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

"(D) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

"(E) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

"(F) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

"(G) Payment for services, supplies, or materials which exceeds $500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

"(H) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

"(I) Failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary.

"(J) Failure to furnish the Secretary, by the expiration of the 60-day period beginning on the 1st day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared in accordance with requirements prescribed by the Secretary, and prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing. The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this subparagraph is due to events beyond the control of the mortgagor.

"(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

"(L) Failure to make promptly all payments due under the note and mortgage, including tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

"(M) Amending the articles of incorporation or bylaws, other than as permitted under the terms of the articles of incorporation as approved by the Secretary, without the prior written approval of the Secretary.

"(2) AMOUNT OF PENALTY.—A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 for a violation of any of the subparagraphs of paragraph (1).

"(d) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

"(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

"(B) shall provide for the imposition of a penalty only after the mortgagor has been given an opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

"(e) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (d)(1), a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(f) ACTION TO COLLECT PENALTY.—If a mortgagor fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and

(e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

12 USC 1701q-1 note.

"(g) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(h) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(i) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(j) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to violations referred to in the amendment that occur on or after the effective date of this section.

(c) CONFORMING AMENDMENT.—Section 201(j)(2) of the Housing and Community Development Amendments of 1978 is amended—

12 USC 1715z-1a.

(1) by striking "and" before "(D)"; and

(2) by inserting before the period at the end the following: ", and (E) any amount received by the Secretary pursuant to section 537 of the National Housing Act and section 202a of the Housing Act of 1959".

SEC. 110. CIVIL MONEY PENALTIES AGAINST GNMA ISSUERS.

Loans.

(a) IN GENERAL.—Title III of the National Housing Act is amended by adding at the end the following new section:

"CIVIL MONEY PENALTIES AGAINST ISSUERS

"SEC. 317. (a) IN GENERAL.—

12 USC 1723i.

"(1) AUTHORITY.—Whenever an issuer or custodian approved under section 306(g) knowingly and materially violates any provisions of subsection (b), the Secretary of Housing and Urban Development may impose a civil money penalty on the issuer or the custodian in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by a particular issuer or custodian during any one-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) shall constitute a separate violation with respect to each pool of mortgages. In the case of a continuing

violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

"(1) VIOLATIONS.—The violations by an issuer or a custodian for which the Secretary may impose a civil money penalty under subsection (a) are the following:

"(A) Failure to make timely payments of principal and interest to holders of securities guaranteed under section 306(g).

"(B) Failure to segregate cash flow from pooled mortgages or to deposit either principal and interest funds or escrow funds into special accounts with a depository institution whose accounts are insured by the National Credit Union Administration or by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations.

"(C) Use of escrow funds for any purpose other than that for which they were received.

"(D) Transfer of servicing for a pool of mortgages to an issuer not approved under this title, unless expressly permitted by statute, regulation, or contract approved by the Secretary.

"(E) Failure to maintain a minimum net worth in accordance with requirements prescribed by the Association;

"(F) Failure to promptly notify the Association in writing of any changes that materially affect the business status of an issuer.

"(G) Submission to the Association of false information in connection with any securities guaranteed, or mortgages pooled, under section 306(g).

"(H) Hiring, or retaining in employment, an officer, director, principal, or employee whose duties involve, directly or indirectly, programs administered by the Association while such person was under suspension or debarment by the Secretary.

"(I) Submission to the Association of a false certification either on its own behalf or on behalf of another person or entity.

"(J) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to, the application for approval as an issuer of securities under section 306(g).

"(K) Violation of any provisions of this title or any implementing regulation, handbook, or participant letter issued under authority of this title.

"(2) NOTIFICATION TO ATTORNEY GENERAL.—Before taking action to impose a civil money penalty for a violation under paragraph (1)(G) or paragraph (1)(I), the Secretary shall inform the Attorney General of the United States.

"(c) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

"(A) shall provide for the Secretary to make the determination to impose the penalty;

"(B) shall provide for the imposition of a penalty only after an issuer or a custodian has been given notice of, and opportunity for, a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of a notice of opportunity for hearing, the imposition of a penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine by regulations.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), an issuer or a custodian against which the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice provided under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—A court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence, which was not presented at such hearing, is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, the court shall have the power in any such review to order payment of the penalty imposed by the Secretary.

"(e) ACTION TO COLLECT PENALTY.—If any issuer or custodian fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or

order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the issuer or custodian and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(h) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(i) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this section into moneys of the Association pursuant to section 307.".

12 USC 1723i note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to—

(1) violations referred to in the amendment that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date.

SEC. 111. CIVIL MONEY PENALTIES FOR VIOLATIONS OF INTERSTATE LAND SALES FULL DISCLOSURE ACT.

(a) IN GENERAL.—The Interstate Land Sales Full Disclosure Act is amended by inserting after section 1418 the following new section:

"CIVIL MONEY PENALTIES

15 USC 1717a.

"SEC. 1418a. (a) IN GENERAL.—

"(1) AUTHORITY.—Whenever any person knowingly and materially violates any of the provisions of this title or any rule, regulation, or order issued under this title, the Secretary may impose a civil money penalty on such person in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $1,000 for each violation, except that the maximum penalty for all violations by a particular person during any 1-year period shall not exceed $1,000,000. Each violation of this title, or any rule, regulation, or order issued under this title, shall constitute a separate violation with respect to each sale or lease or offer to sell or lease. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

"(A) shall provide for the imposition of a penalty only after a person has been given an opportunity for a hearing on the record; and

"(B) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (c).

"(c) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (b)(1), a person aggrieved by a final order of the Secretary assessing a penalty under this section may seek judicial review pursuant to section 1411.

"(2) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(d) ACTION TO COLLECT PENALTY.—If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (b) and (c), the Secretary may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(e) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(f) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(g) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(h) USE OF PENALTIES FOR ADMINISTRATION.—Civil money penalties collected under this section shall be paid to the Secretary and, upon approval in an appropriation Act, may be used by the Secretary to cover all or part of the cost of rendering services under this title.".

15 USC 1717a note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to—

(1) violations referred to in the amendment that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of violation referred to in the amendment that occurs on or after such date.

SEC. 112. REGISTRATION OF CONSULTANTS.

The Department of Housing and Urban Development Act, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"REGISTRATION OF CONSULTANTS

42 USC 3537b.

"SEC. 13. (a) RECORD OF EXPENDITURES.—

"(1) REQUIREMENT TO MAINTAIN.—Each person who makes an expenditure to influence the decision of any officer or employee of the Department, through communication with such officer or employee, with respect to—

"(A) the award of any financial assistance within the jurisdiction of the Department, or

"(B) any management action involving a change in the terms and conditions or status of financial assistance awarded to any person,

shall keep records, as required by this section. The preceding sentence shall not apply to expenditures incurred in complying with conditions, requirements, or procedures imposed by the Secretary in connection with any financial assistance.

"(2) COVERED INFORMATION.—Each person referred to in paragraph (1) shall keep a detailed and exact account of—

"(A) all such expenditures made by or on behalf of such person; and

"(B) the name and address of every person to whom any such expenditure is made and the date of the expenditure.

"(3) MAINTENANCE OF RECORDS.—Each person making such an expenditure shall obtain a bill, stating the particulars, for every such expenditure, and shall retain all records required by this section for not less than the 2-year period beginning on the date of the filing of the report required by subsection (b), which shall include the information under paragraph (2).

"(4) LIMITATION OF FEES.—Any person engaged for pay or other consideration for the purpose of attempting to influence any award or allocation of financial assistance within the jurisdiction of the Department shall not seek or receive any fee that is—

"(A) based on the amount of assistance or number of units that may be provided by the Secretary, or

"(B) contingent on an award of assistance by the Secretary, except where—

"(i) services are provided to a nonprofit entity applying for such award or allocation of assistance; and

"(ii) professional services related to a project are donated in whole or in part to a nonprofit entity in the event assistance for a project is not awarded.

"(b) REPORTS OF EXPENDITURES FILED WITH THE SECRETARY.—

"(1) REPORT.—Each person making an expenditure for the purposes designated in subsection (a)(1) shall file with the Secretary, between the 1st and 10th day of each calendar year, a report specifying the total expenditures made by or on behalf of such person during the year and the information required by subsection (a)(2)(B).

"(2) REGULAR EMPLOYEES.—The requirements of this subsection shall not apply in the case of a payment of reasonable compensation made to any regularly employed officer or employee of the person who requests or receives assistance within the jurisdiction of the Department, or who is involved in any management action with respect to such assistance.

"(3) MINIMUM DOLLAR REQUIREMENTS.—The requirements of this subsection shall not apply to any person whose total expenditures for purposes described in subparagraphs (A) and (B) of subsection (a)(1) are less than $10,000 in any calendar year.

"(4) FILING AND RETENTION.—A report required by this subsection—

"(A) shall be considered properly filed when deposited in a post office within the prescribed time, stamped, registered, and addressed to the Secretary, but if the Secretary does not receive the report, the person shall promptly file a duplicate report when the Secretary notifies the person that the original report has not been received; and

"(B) shall be retained by the Secretary for the 2-year period beginning on the date of filing, shall constitute part of the public records of the Department, and shall be open to public inspection.

Public information.

"(5) PUBLICATION OF INFORMATION.—The Secretary shall compile all expenditure information as soon as practicable after the close of the calendar year with respect to which the information is filed and shall publish it as a notice in the Federal Register.

Federal Register, publication.

"(c) REGISTRATION BY PERSONS ATTEMPTING TO INFLUENCE DEPARTMENT DECISIONS.—

"(1) REQUIREMENT AND INFORMATION.—Each person receiving payment or any consideration for the purpose described in subsection (a)(1), shall, not later than 14 days after being retained for such purpose, register with the Secretary. The registration shall be in writing and shall include the name and business address of the registrant, the name and address of the registrant's employer and of any person or entity in whose interest the registrant appears or works, and a statement of whether the registrant has been employed by the Federal Government during the 2-year period ending on the date of the registration and in what capacity. Each registrant shall, between the 1st and 10th day of each calendar year, file with the

Reports.

Secretary a detailed report of all money received and expended by the registrant during the preceding year in carrying out the work, including information as to whom money was paid, and for what purposes.

"(2) MINIMUM DOLLAR REQUIREMENT.—The requirements of the last sentence of paragraph (1) shall not apply with respect to any calendar year to any person whose total compensation for attempting to influence a decision with respect to assistance within the jurisdiction of the Department or a management action with respect to such assistance is less than $10,000 in such year.

Federal Register, publication.

"(3) PUBLICATION OF INFORMATION.—The Secretary shall compile all registration information as soon as practicable after the close of the calendar year with respect to which the information is filed and shall publish it annually as a notice in the Federal Register.

"(d) CIVIL MONEY PENALTIES.—

"(1) AUTHORITY.—Whenever any person knowingly fails to file a report required under subsection (b), or any person knowingly fails to register and file a report required under subsection (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this subsection. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, shall not exceed the greater of—

"(A) $10,000 for each violation; or

"(B) the total amount received for any services performed for any applicant to which the violation under paragraph (1) relates.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this subsection, consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) AGENCY PROCEDURES.—

"(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under paragraph (1). These standards and procedures shall—

"(i) provide for the Secretary or other department official to make the determination to impose the penalty or for use of an administrative entity to make the determination;

"(ii) provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

"(iii) provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

"(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the

determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(C) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (5).

"(5) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(A) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under paragraph (4)(A), a person against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under paragraph (4)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(B) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (4)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there are reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(C) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(D) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(6) ACTION TO COLLECT PENALTY.—If any person fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (4)(A) and (5), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this paragraph, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(7) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

"(8) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

"(e) PROHIBITION ON CONSULTING ACTIVITIES.—

"(1) IN GENERAL.—Whoever is fined under subsection (d) may be prohibited, for the 3-year period beginning on the date of the imposition of the fine, from receiving any payment or thing of value for performing any services (with respect to any application for financial assistance within the jurisdiction of the Department) for any applicant.

"(2) CRIMINAL PENALTY.—Whoever violates the prohibition under paragraph (1) shall, upon conviction, be guilty of a felony and shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'person' means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

"(2) The term 'expenditure' includes a payment, distribution, loan, advance, deposit, gift of money, or anything else of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

"(3) The term 'financial assistance within the jurisdiction of the Department' includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

"(4) The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(5) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to or not furnished in cooperation with the Department.

"(6) The term 'regularly employed' means, with respect to an officer or employee of a person requesting or receiving assistance within the jurisdiction of the Department or who is involved in a management action with respect to such assistance, an officer or employee who is employed by such person for at least 130 working days within one year immediately before the date of the submission that initiates departmental consideration of such person for receipt of such assistance, or the date of initiation of any management action.

"(g) REGULATIONS.—The Secretary shall issue any regulations necessary to implement this section.

"(h) EFFECTIVE DATE.—This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment. The regulations shall establish standards that include determinations of what types of activities constitute influence with respect to the decisions of the Department described in subsection (a)(1) (A) and (B).".

Subtitle B—Management Reform

SEC. 121. ESTABLISHMENT OF HUD CHIEF FINANCIAL OFFICER.

Section 4 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection: 42 USC 3533.

"(e) There shall be in the Department a Chief Financial Officer, designated by the Secretary, who shall—

"(1) serve as the principal advisor to the Secretary on financial management;

"(2) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, financial reporting systems, credit, and cash and debt management);

"(3) supervise and coordinate all financial management activities and operations of the Department;

"(4) assist in the financial execution of the Department's budget in relation to actual expenditures and prepare timely performance reports for senior managers; and Reports.

"(5) issue such policies and directives as may be necessary to carry out this section.".

SEC. 122. ESTABLISHMENT OF FHA COMPTROLLER.

Section 4 of the Department of Housing and Urban Development Act, as amended by section 121, is further amended by adding at the end the following new subsection:

"(f) There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.".

SEC. 123. EXPEDITING RULEMAKING.

Section 7(o) of the Department of Housing and Urban Development Act is amended— 42 USC 3535.

(1) in paragraph (2)(A)—

(A) by striking "first period of 15 calendar days of continuous session of Congress which occurs" in the first sentence and inserting "15-calendar day period beginning on the day"; and

(B) by striking "of continuous session" in the second sentence;

(2) in paragraph (2)(B), by striking "of continuous session of Congress";

(3) in paragraph (3)—

(A) by striking "first period of 30 calendar days of continuous session of Congress which occurs" in the first sentence and inserting "expiration of the 30-calendar day period beginning on the day"; and

(B) by striking all that follows the period at the end of the first sentence and inserting the following: "Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days."; and

(4) by striking paragraphs (5) and (6).

SEC. 124. FUNDING FOR PROGRAM EVALUATION AND MONITORING.

Section 7 of the Department of Housing and Urban Development Act, as amended by section 106 of this Act, is further amended by adding at the end the following new subsection:

"(r)(1) For the programs listed in paragraph (2), amounts appropriated under this subsection shall be available to the Secretary for evaluating and monitoring of all such programs (including all aspects of the public housing and section 202 programs). The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program.

"(2) The programs subject to this subsection shall be the programs authorized under—

"(A) titles I and II of the United States Housing Act of 1937;

"(B) section 202 of the Housing Act of 1959;

"(C) section 106 of the Housing and Urban Development Act of 1968;

"(D) the Fair Housing Act;

"(E) title I and section 810 of the Housing and Community Development Act of 1974;

"(F) section 201 of the Housing and Community Development Amendments of 1978;

"(G) the Congregate Housing Services Act of 1978;

"(H) section 222 of the Housing and Urban-Rural Recovery Act of 1983;

"(I) section 561 of the Housing and Community Development Act of 1987; and

"(J) title IV of the Stewart B. McKinney Homeless Assistance Act.

"(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, the Secretary shall determine any need for additional staff and funding relating to evaluating and monitoring the programs under paragraph (2).

Grants.
Contracts.

"(4)(A) The Secretary may provide for evaluation and monitoring under this subsection directly or by grants, contracts, or interagency agreements. Not more than 50 percent of the amounts made available under paragraph (1) may be used for grants, contracts, or interagency agreements.

"(B) Any amounts not used for grants, contracts, or interagency agreements under subparagraph (A) shall be used in a manner that increases and strengthens the ability of the Department to monitor and evaluate the programs under paragraph (2) through officers and employees of the Department.

Reports.

"(5) Not later than December 31 of each year, the Secretary shall submit to the Congress a report regarding the use of amounts made available under this subsection during the fiscal year ending on September 30 of that year, including an analysis of the ability of the Department to monitor and evaluate the programs under paragraph (2) and a statement of any needs determined under paragraph (3).

Appropriation authorization.

"(6) There is authorized to be appropriated to carry out this subsection $25,000,000 for fiscal year 1991. Such amounts shall remain available until expended.".

Loans.

SEC. 125. REFINANCING OF SECTION 235 MORTGAGES.

12 USC 1715z.

(a) IN GENERAL.—Section 235(r) of the National Housing Act is amended to read as follows:

"(r)(1) The Secretary is authorized, upon application of a mortgagee, to insure under this subsection a mortgage the proceeds of which are used to refinance a mortgage insured under this section.

"(2) To be eligible for insurance under this subsection, a mortgage must be executed by a mortgagor meeting the requirements of paragraph (3) and shall— Insurance.

"(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease—

"(i) for not less than 99 years which is renewable; or

"(ii) having a period of not less than 10 years to run beyond the maturity date of the mortgage;

"(B) have been made to, and held by, a mortgagee approved by the Secretary;

"(C) be in an amount not exceeding the outstanding principal balance, including any unpaid interest, due on the mortgage being refinanced;

"(D) have a maturity not exceeding the unexpired term of the mortgage being refinanced;

"(E) bear an interest rate not exceeding such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; to the extent that the amounts described in paragraphs (4) (A) and (B) are not otherwise paid by the Secretary, the foregoing interest rate may be increased, in the discretion of the Secretary, to compensate the mortgagee for its payment to, or on behalf of, the mortgagor of such amounts; and

"(F) meet the criteria for refinancing as determined by the Secretary.

"(3) Notwithstanding the provisions of subsection (h)(2), assistance payments in connection with mortgages insured under paragraph (2) shall be made only with respect to a family who is eligible for, and receiving assistance payments with respect to, the insured mortgage being refinanced.

"(4) The Secretary is authorized and, to the extent provided in appropriation Acts, may pay to the mortgagor (directly, through the mortgagee, or otherwise)—

"(A) an amount, as approved by the Secretary, as an incentive to the mortgagor to refinance a mortgage insured under this section; and

"(B) an amount as approved by the Secretary for costs incurred in connection with the refinancing, including but not limited to discounts, loan origination fees, and closing costs.

"(5) Amounts of budget authority required for assistance payments contracts with respect to mortgages insured under this subsection shall be derived from amounts recaptured from assistance payments contracts relating to mortgages that are being refinanced. For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection shall not be construed as 'unused'. Contracts.

"(6) The Secretary is authorized to take any actions to identify and communicate with any mortgagor of a mortgage insured under this section to implement the refinancing of such mortgages with insurance under this subsection. The Secretary may take such actions directly, or under contract. Notwithstanding the restriction Insurance.

of section 552a(b) of title 5 of the United States Code, upon the request of an approved mortgagee, the Secretary may disclose to such mortgagee the name and address of any mortgagor of a mortgage insured under this section that meets the criteria for refinancing, pursuant to paragraph (2)(F), and the unpaid principal balance and interest rate on such mortgage.

Federal Register, publication.

"(7) The Secretary shall implement the provisions of this subsection by a notice published in the Federal Register.".

12 USC 1715z. Contracts.

(b) EXCESS RECAPTURED AMOUNTS.—Section 235(c)(3)(C) of the National Housing Act is amended by inserting after the period at the end the following new sentence: "Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.".

(c) CONFORMING AMENDMENTS.—Section 235 of the National Housing Act is amended—

(1) in subsection (c)(1), by inserting ", other than a contract in connection with a refinancing under subsection (r)," in the second sentence after "any new contract";

(2) in subsection (c)(3)(A), by inserting "(except to the extent provided in subsection (r) for mortgages insured under such subsection)" in the second sentence after "refinanced,";

(3) in subsection (e), by striking "or (j)(7)," and inserting "(j)(7), or (r),";

(4) in subsection (h)(1)—

(A) by inserting "(other than obligations in connection with mortgages insured under subsection (r))" in the third sentence after "October 1, 1983";

(B) by inserting "(except under subsection (r))" in the sixth sentence after "under this section" the first place it appears; and

(C) by inserting "(other than a contract in connection with a mortgage insured under subsection (r))" in the seventh sentence after "under this section";

Contracts.

(5) in subsection (h)(3), by inserting after the period at the end the following: "The preceding sentence shall not apply to contracts in connection with mortgages insured under subsection (r).";

(6) in subsection (m), by inserting "(except a mortgage insured under subsection (r))" after "No mortgage"; and

(7) in subsection (n), by inserting "or to a mortgage insured under subsection (r)" before the period at the end.

12 USC 1715z note.

(d) SAVINGS PROVISION.—Notwithstanding the termination of the program under section 235 pursuant to section 401(d) of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall have authority to insure mortgages under section 235(r), to make assistance payments with respect to such insured mortgages, and to make any other payment or take any other action related to the refinancing of mortgages insured under section 235.

SEC. 126. SANCTIONS FOR IMPROPER CONVEYANCES UNDER URBAN HOMESTEAD PROGRAMS.

(a) IN GENERAL.—Section 810 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection: 12 USC 1706e.

"(m) If the Secretary determines that any property transferred for use under an urban homestead program under this section has been conveyed or used under the program in a manner contrary to the provisions of this section, the Secretary may take action as the Secretary considers appropriate, including taking any of the following actions: State and local governments.

"(1) The Secretary may impose a civil penalty on the unit of general local government or the State or the qualified community organization or public agency designated by a unit of general local government, or the transferee of such entity, as appropriate, in an amount not less than any profit realized with respect to the conveyance or use of the property contrary to the provisions of this section.

"(2) The Secretary may revoke the conveyance of the property pursuant to subsection (b)(4) and revoke the transfer of the property to the unit of general local government or State or the qualified community organization or public agency designated by a unit of general local government, except that the Secretary may not revoke the conveyance of any property under this paragraph if the Secretary determines that the conveyance was made to an individual or family who has substantially complied with the requirements of this section for participation in an urban homestead program and who has no knowledge of the conveyance or use of the property contrary to the provisions of this section. If any tenants of any property for which a conveyance is revoked under this paragraph would be displaced by such revocation and the Secretary determines that the tenants are not responsible for or involved in the actions for which the revocation has been imposed, the Secretary shall, if practicable, take actions that would allow the tenants to remain on the property and maintain the property under an urban homestead program.".

(b) CONFORMING AMENDMENT.—Section 810(b)(4) of the Housing and Community Development Act of 1974 is amended by inserting before the semicolon at the end the following: "or by the Secretary under subsection (m)(2)".

(c) APPLICABILITY.—The amendments made by this section shall apply to any property transferred for use in an urban homestead program under section 810 of the Housing and Community Development Act of 1974 after January 1, 1981. 12 USC 1706e note.

SEC. 127. REFORM OF MODERATE REHABILITATION PROGRAM.

Section 8(e)(2) of the United States Housing Act of 1937 is amended— 42 USC 1437f.

(1) by striking the period at the end of the first sentence and inserting the following: ", and which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems.";

(2) by inserting after the period at the end the following new sentence: "In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regard-

ing the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of the Internal Revenue Code of 1986 (or from any syndication of such credits) with respect to the housing."; and

(3) by inserting after the period at the end (as inserted by paragraph (2)) the following: "For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 213(d) of the Housing and Community Development Act of 1974, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted.".

Subtitle C—Federal Housing Administration Reforms

SEC. 131. ANNUAL AUDITED FINANCIAL STATEMENTS.

Title V of the National Housing Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new section:

"ANNUAL AUDITED FINANCIAL STATEMENTS

Public information. 12 USC 1735f-16.

"SEC. 538. With respect to fiscal year 1989 and for every fiscal year thereafter, the Secretary shall make available to the public a financial statement of the insurance funds established under this Act that will present their financial condition on a cash and accrual basis, consistent with generally accepted accounting principles. Each financial statement shall be audited by an independent accounting firm selected by the Secretary and the results of such audit shall be made available to the public.".

Loans. Insurance.

SEC. 132. CREDIT REVIEWS OF PERSONS ACQUIRING MORTGAGED PROPERTIES UNDER SINGLE FAMILY PROGRAM FOR LIFE OF MORTGAGE.

12 USC 1709.

(a) IN GENERAL.—Section 203(r) of the National Housing Act is amended—

(1) by amending the first sentence to read as follows: "The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this title."; and

(2) by amending paragraphs (2) and (3) to read as follows:

"(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this title be determined to be creditworthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement); and

"(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to— 12 USC 1709 note.

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 C.F.R. 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(r) of the National Housing Act, as such section existed immediately before such date. 12 USC 1709 note.

SEC. 133. REPEAL OF TITLE X LAND DEVELOPMENT PROGRAM.

(a) REPEAL.—Title X of the National Housing Act is hereby repealed. 12 USC 1749aa–1749*ll*.

(b) APPLICABILITY.—On or after the date of enactment of this Act, no mortgage may be insured under title X, as such title existed immediately before such date, except pursuant to a commitment to insure made before such date. 12 USC 1749aa note.

(c) SAVINGS PROVISION.—Any contract of insurance entered into under title X before the date of enactment of this Act shall be governed by the provisions of such title as such title existed immediately before such date. Contracts. Insurance. 12 USC 1749aa note.

(d) CONFORMING AMENDMENTS.—The National Housing Act is amended—

(1) in section 1, by striking "X," each place it appears; 12 USC 1702.

(2) in section 212(a), by striking the seventh sentence; 12 USC 1715c.

(3) in section 512, by striking "X," in the first sentence; 12 USC 1731a.

(4) in section 522, by inserting ", as such title existed immediately before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989," after "title X of this Act"; and 12 USC 1735f.

(5) in section 530, by striking "X,". 12 USC 1735f–8.

SEC. 134. CIVIL MONEY PENALTIES FOR IMPROPER DEALER AND LOAN BROKER PARTICIPATION IN ORIGINATION OF PROPERTY IMPROVEMENT LOANS.

(a) IN GENERAL.—Section 2(b) of the National Housing Act is amended by adding at the end the following new paragraph: 12 USC 1703.

"(7) With respect to the financing of alterations, repairs, and improvements to existing structures or the building of new structures as authorized under clause (i) of the first sentence of section 2(a), any loan broker (as defined by the Secretary) or any other party having a financial interest in the making of such a loan or advance of credit or in providing assistance to the borrower in preparing the loan application or otherwise assisting the borrower in obtaining the loan or advance of credit who knowingly (as defined in section 536(g)

of this Act) submits to any such financial institution or to the Secretary false information shall be subject to a civil money penalty in the amount and manner provided under section 536 with respect to mortgagees and lenders under this Act.".

12 USC 1703 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to—

(1) violations referred to in the amendment that occur on or after the date of the enactment of this Act; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date.

Loans.

SEC. 135. NOTIFICATION REGARDING SUSPENDED MORTGAGEES.

12 USC 1709.

Section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(s) Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this title, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

"(1) the Secretary of Veterans Affairs;

"(2) the chief executive officer of the Federal National Mortgage Association;

"(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

"(4) the Administrator of the Farmers Home Administration;

"(5) if the mortgagee is a national bank or District bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

"(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System;

"(7) if the mortgagee is a State bank that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation; and

"(8) if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision.".

SEC. 136. FHA FORECLOSED PROPERTIES.

12 USC 1710.

(a) MAINTENANCE.—Section 204(a) of the National Housing Act is amended by inserting after the period at the end of the third sentence the following new sentence: "As a condition of the receipt of such benefits, the mortgagee shall maintain or assure the maintenance of the mortgaged property (in such manner as the Secretary shall by regulation provide) during the period beginning on the taking of the possession or other acquisition of the mortgaged property by the mortgagee and ending on conveyance to the Secretary or other disposition of the mortgaged property in accordance with this section, and funds expended by the mortgagee in meeting such obligation shall be included, to the extent provided in this subsection or in subsection (k), in debentures or other insurance payment pursuant to this section.".

(b) DISPOSITION OF PROPERTIES ON CREDIT TERMS.—Section 204(g) of the National Housing Act is amended by inserting after the period at the end of the first sentence the following new sentence: "The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program.". 12 USC 1710. Regulations.

SEC. 137. REPORT REGARDING PROVIDING FORECLOSED PROPERTIES TO 1989 DISASTER VICTIMS.

(a) HUD.—

(1) STUDY.—The Secretary of Housing and Urban Development shall conduct a study regarding the feasibility of making available, to low-income persons whose homes in areas declared by the President as disaster areas as a result of hurricane Hugo or the Loma Prieta earthquake during 1989 were destroyed by such disasters, any available properties (including multifamily properties) owned by the Secretary.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, a report regarding the results and conclusions of the study under paragraph (1), together with any recommendations for legislation regarding providing such property.

(b) FARMERS HOME ADMINISTRATION.—The Secretary of Agriculture shall conduct a study regarding the feasibility of making available, as provided in subsection (a)(1), any available properties (including multifamily properties) owned by the Secretary through the Farmers Home Administration and shall submit a report regarding such study as provided in subsection (a)(2).

(c) CONSULTATION.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall consult in conducting the studies under subsections (a) and (b) and may submit a single report meeting the requirements of subsections (a)(2) and (b).

SEC. 138. REPORT REGARDING ACTIONS TO IMPROVE DIRECT ENDORSEMENT PROGRAM.

(a) IN GENERAL.—With respect to the direct endorsement program in connection with single-family mortgage insurance under title II of the National Housing Act, the Secretary shall submit to the Congress a report describing any actions the Secretary determines are necessary to take, to—

(1) improve monitoring and supervision under the program;

(2) reduce defaults under the program; and

(3) decrease the potential for fraud under the program.

(b) TIME OF SUBMISSION.—The Secretary shall submit the report under subsection (a) to the Congress not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 139. CO-INSURANCE AMENDMENTS.

(a) IN GENERAL.—Section 244 of the National Housing Act is amended by adding at the end thereof the following new subsection: 12 USC 1715z-9.

"(i) The Secretary shall, by January 15 and July 15 of each year (1) review the adequacy of capital and other requirements for mortgagees under this section, (2) assess the compliance by mortgagees with such requirements, and (3) make such adjustment to such requirements as the Secretary, after providing opportunity for hearing,

determines to be appropriate to improve the long-term financial soundness of the Federal Housing Administration funds. Such requirements shall include the minimum capital or net worth of mortgagees; the ratio that mortgagees shall maintain between the mortgagee's capital and the volume of mortgages co-insured by such mortgagee; and such other requirements as the Secretary determines to be appropriate to ensure the long-term financial soundness of the Federal Housing Administration funds. 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 report on the review and assessment under the previous sentence, and an explanation of the Secretary's reasons for making any adjustment in requirements authorized under this section.".

Reports.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress not later than April 1, 1990, a report on the disposition of coinsured multifamily housing projects held by the Government National Mortgage Association. The report shall include a description of the guidelines governing the disposition of such properties, particularly as such guidelines relate to the objectives of—

(1) minimizing losses to the Federal Government;

(2) preserving the projects in decent, safe, and sanitary condition; and

(3) protecting lower-income tenants residing in such projects.

The report shall also describe the status of such multifamily housing projects, including the name, address, and size of each project, and the date and conditions of any foreclosure sale.

SEC. 140. FHA MANAGEMENT.

42 USC 3533.

Section 4 of the Department of Housing and Urban Development Act is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by redesignating the second sentence in subsection (a) as subsection (b) and adding at the end thereof the following: "The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.".

Business and industry.

SEC. 141. CONTRACTING FOR FINANCIAL MANAGEMENT SUPPORT.

42 USC 3535.

Section 7(e) of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following: "The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.".

SEC. 142. FHA OPERATIONS.

12 USC 1708.

Section 202 of the National Housing Act is amended by—

(1) striking the heading "MUTUAL MORTGAGE INSURANCE FUND" and inserting "FEDERAL HOUSING ADMINISTRATION OPERATIONS";

(2) striking "SEC. 202." and inserting: "SEC. 202. (a) MUTUAL MORTGAGE INSURANCE FUND.—"; and

(3) adding at the end thereof the following new subsections:

"(b) ADVISORY BOARD.—There is created a Federal Housing Administration Advisory Board ("Board") that shall review operation of the Federal Housing Administration, including the activities of the Mortgagee Review Board, and shall provide advice to the Federal Housing Commissioner with respect to the formulation of general policies of the Federal Housing Administration and such other matters as the Federal Housing Commissioner may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

"(1) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in housing and mortgage lending of whom—

"(A) 9 shall be appointed by the Secretary;

"(B) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(C) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) Membership on the Advisory Board shall include—

"(A) not less than 4 persons with distinguished private sector careers in housing finance, lending, management, development or insurance;

"(B) not less than 4 persons with outstanding reputations as licensed actuaries, experts in actuarial science, or economics related to housing;

"(C) not less than 4 persons with backgrounds of leadership in representing the interests of housing consumers;

"(D) not less than 1 person with significant experience and a distinguished reputation for work in the enforcement, advocacy, or development of fair housing or civil rights legislation; and

"(E) not less than 1 person with a background of leadership representing rural housing interests.

"(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation or every region of the country.

"(4) Not more than 8 members of the Advisory Board may be from any one political party.

"(5) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 112(c) of the Department of Housing and Urban Development Reform Act of 1989 or employed a person for purposes that required such person to so register.

"(6) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years.

Their successors and all other appointees shall have terms of 3 years.

"(7) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Federal Housing Commissioner. The Commissioner shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Federal Housing Administration.

Reports.

"(8) The Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities of the Federal Housing Administration, including the soundness of underwriting procedures, the adequacy of information systems, the appropriateness of staffing patterns, the effectiveness of the Mortgagee Review Board, and other matters related to the Federal Housing Administration's ability to serve the nation's homebuyers and renters. Such report shall contain the Board's recommendations for improvement and include any minority views.

District of Columbia.

"(9) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Federal Housing Commissioner or a majority of the members. The Board shall elect a chair, vice-chair and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

"(10) Subject to the provisions of Section 7 of the Federal Advisory Committee Act, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.

"(c) MORTGAGEE REVIEW BOARD.—

"(1) ESTABLISHMENT.—There is established within the Federal Housing Administration the Mortgagee Review Board ("Board"). The Board is empowered to initiate the issuance of a letter of reprimand, the probation, suspension or withdrawal of any mortgagee found to be engaging in activities in violation of Federal Housing Administration requirements or the nondiscrimination requirements of the Equal Credit Opportunity Act, the Fair Housing Act, or Executive Order 11063.

"(2) COMPOSITION.—The Board shall consist of—

"(A) the Assistant Secretary of Housing/Federal Housing Commissioner;

"(B) the General Counsel of the Department;

"(C) the President of the Government National Mortgage Association;

"(D) the Assistant Secretary for Administration;

"(E) the Assistant Secretary for Fair Housing Enforcement (in cases involving violations of nondiscrimination requirements); and

"(F) the Chief Financial Officer of the Department;

or their designees.

"(3) ACTIONS AUTHORIZED.—When any report, audit, investigation, or other information before the Board discloses that a basis for an administrative action against a mortgagee exists, the Board shall take one of the following administrative actions:

"(A) LETTER OF REPRIMAND.—The Board may issue a letter of reprimand only once to a mortgagee without taking action under subparagraphs (B), (C), or (D) of this

section. A letter of reprimand shall explain the violation and describe actions the mortgagee should take to correct the violation.

"(B) PROBATION.—The Board may place a mortgagee on probation for a specified period of time not to exceed 6 months for the purpose of evaluating the mortgagee's compliance with Federal Housing Administration requirements, the Equal Credit Opportunity Act, the Fair Housing Act, Executive Order 11063, or orders of the Board. During the probation period, the Board may impose reasonable additional requirements on a mortgagee including supervision of the mortgagee's activities by the Federal Housing Administration, periodic reporting to the Federal Housing Commissioner, or submission to Federal Housing Administration audits of internal financial statements, audits by an independent certified public accountant or other audits.

"(C) SUSPENSION.—The Board may issue an order suspending a mortgagee's approval for doing business with the Federal Housing Administration if there exists adequate evidence of a violation or violations and continuation of the mortgagee's approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. A suspension shall last for not less than 6 months. During the period of suspension, the Federal Housing Administration shall not commit to insure any mortgage originated by the suspended mortgagee.

"(D) WITHDRAWAL.—The Board may issue an order withdrawing a mortgagee if the Board has made a determination of a serious violation or repeated violations by the mortgagee. The Board shall determine the terms of such withdrawal, but the term shall be not less than 1 year. Where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

"(E) SETTLEMENTS.—The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an action. Agreements may include provisions such as—

"(i) cessation of any violation;

"(ii) correction or mitigation of the effects of any violation;

"(iii) repayment of any sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by the Federal Housing Administration;

"(iv) actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party;

"(v) indemnification of the Federal Housing Administration for mortgage insurance claims on mortgages originated in violation of Federal Housing Administration requirements;

"(vi) modification of the length of the penalty imposed; or

"(vii) implementation of other corrective measures acceptable to the Secretary.

Material failure to comply with the provisions of a settlement agreement shall be sufficient cause for suspension or withdrawal.

"(4) NOTICE AND HEARING.—

"(A) The Board shall issue a written notice to the mortgagee at least 30 days prior to taking any action against the mortgagee under subparagraph (B), (C), or (D) of paragraph (3). The notice shall state the specific violations which have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days. If the mortgagee fails to reply during such period, the Board may make a determination without considering any comments of the mortgagee.

"(B) If the Board takes action against a mortgagee under subparagraph (B), (C), or (D) of paragraph (3), the Board shall promptly notify the mortgagee in writing of the nature, duration, and specific reasons for the action. If, within 30 days of receiving the notice, the mortgagee requests a hearing, the Board shall hold a hearing on the record regarding the violations within 30 days of receiving the request. If a mortgagee fails to request a hearing within such 30-day period, the right of the mortgagee to a hearing shall be considered waived.

Public information.

"(C) In any case in which the notification of the Board does not result in a hearing (including any settlement by the Board and a mortgagee), any information regarding the nature of the violation and the resolution of the action shall be available to the public.

Federal Register, publication.

"(5) PUBLICATION.—The Secretary shall establish and publish in the Federal Register a description of and the cause for administrative action against a mortgagee.

"(6) CEASE-AND-DESIST ORDERS.—

"(A) Whenever the Secretary, upon request of the Mortgagee Review Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate, a law, rule or regulation or any condition imposed in writing by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Such order shall include a notice of charges in respect thereof and shall become effective upon service to the mortgagee. Such order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board with respect to such violation, unless such order is set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph. The Board shall provide the mortgagee an opportunity for a hearing on the record, as soon as practicable but not later than 20 days after the temporary cease-and-desist order has been served.

District of Columbia.

"(B) Within 10 days after the mortgagee has been served with a temporary cease-and-desist order, the mortgagee may apply to the United States district court for the ju-

dicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting of suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jurisdiction to issue such injunction.

"(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this paragraph, the Secretary may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the mortgagee is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

"(D) For purposes of this paragraph, the term 'mortgagee' means a mortgagee, a branch office or subsidiary of a mortgagee, or a director, officer, employee, agent, or other person participating in the conduct of the affairs of such mortgagee.

"(7) REPORT REQUIRED.—The Board, in consultation with the Federal Housing Administration Advisory Board, shall annually recommend to the Secretary such amendments to statute or regulation as the Board determines to be appropriate to ensure the long term financial strength of the Federal Housing Administration fund and the adequate support for home mortgage credit.

"(d) COORDINATION OF GNMA AND FHA WITHDRAWAL ACTION.—

"(1) Whenever the Federal Housing Administration or Government National Mortgage Association initiates proceedings that could lead to withdrawing the mortgagee from participating in the program, the initiating agency shall—

"(A) within 24 hours notify the other agency in writing of the action taken;

"(B) provide to the other agency the factual basis for the action taken; and

"(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

Federal Register, publication.

"(2) Within 60 days of receipt of a notification of action that could lead to withdrawal under subsection (1), the Federal Housing Administration or the Government National Mortgage Association shall—

"(A) conduct and complete its own investigation;

"(B) provide written notification to the other agency of its decision, including the factual basis for its decision; and

"(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

Federal Register, publication.

"(e) APPRAISAL STANDARDS.—(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

"(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

"(B) that each appraisal be a written statement used in connection with a real estate transaction that is independently an impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

"(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.".

SEC. 143. ELIMINATION OF PRIVATE INVESTOR-OWNERS FROM SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

12 USC 1709.
State and local governments.

(a) RETENTION OF PUBLIC AND NONPROFIT INVESTOR OWNERS.—Section 203(g)(3) of the National Housing Act is amended—

(1) in subparagraph (A), by striking the semicolon at the end and inserting the following: ", or any other State or local government or an agency thereof;"; and

(2) in subparagraph (B), by striking the semicolon at the end and inserting the following: ", or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;".

(b) ELIMINATION OF PRIVATE INVESTOR-OWNERS.—Section 203(g) of the National Housing Act, as amended by subsection (a), is further amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

12 USC 1709 note.

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

12 USC 1709 note.

(d) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions amended by subsections (a) and (b) as such provisions existed immediately before such date.

TITLE II—HOUSING PRESERVATION

SEC. 201. LIMITATIONS ON PREPAYMENT.

Section 203(a) of the Emergency Low Income Housing Preservation Act of 1987 is amended by striking "upon the expiration of the 2-year period beginning on the date of the enactment of this Act" and inserting in lieu thereof "on September 30, 1990". 12 USC 1715*l* note.

SEC. 202. CLARIFICATION OF APPLICABILITY TO VOLUNTARY TERMINATION OF INSURANCE.

(a) GENERAL PREPAYMENT LIMITATION.—Section 221(a) of the Emergency Low Income Housing Preservation Act of 1987 is amended by adding at the end the following new sentence: "An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle. 12 USC 1715*l* note.

(b) ALTERNATIVE PREPAYMENT LIMITATION.—Section 221(b) of the Emergency Low Income Housing Preservation Act of 1987 is amended—

(1) by striking the first comma and inserting "(1)"; and

(2) by inserting before the period at the end of the sentence the following: ", and (2) an insurance contract with respect to eligible low-income housing located in the geographic area subject to the jurisdiction of such court may not be terminated pursuant to section 229 of the National Housing Act during the 2-year period following the date of such invalidation".

(c) NOTICE OF INTENT.—Section 222 of the Emergency Low Income Housing Preservation Act of 1987 is amended by inserting after "agreement" the following: "(including a request to terminate the insurance contract pursuant to section 229 of the National Housing Act)". 12 USC 1715*l* note.

(d) CONFORMING AMENDMENTS.—

(1) Section 250(a) of the National Housing Act is amended by inserting after "project" the second place it appears the following: "or permit a termination of an insurance contract pursuant to section 229 of this Act". 12 USC 1715z-15.

(2) Section 229 of the National Housing Act is amended by inserting after "section 2" the following: "and except as specified under section 250 of this Act and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,". 12 USC 1715t.

SEC. 203. INCENTIVES TO EXTEND LOW-INCOME USE.

(a) LOANS.—

(1) ACQUISITIONS BY PUBLIC ENTITIES.—Section 236(b) of the National Housing Act is amended by inserting "public entity," before "or a cooperative housing corporation". 12 USC 1715z-1.

(2) CAPITAL IMPROVEMENT LOANS.—(A) Section 201(m)(2)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "Reduce" and inserting "Notwithstanding subsection (l)(2)(B), reduce". 12 USC 1715z-1a.

(B) Section 201(m)(2) of the Housing and Community Development Amendments of 1978 is amended—

(i) by striking "not subject to paragraph (1)";

(ii) by inserting after "residents" the second place it appears the following: ", or where appropriate to imple-

ment a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987";

(iii) adding a new subparagraph after subparagraph (D):

"(E) Permit repayment of the debt service to be deferred as long as the low and moderate income character of the project is maintained in accordance with subsection (d).".

(b) APPROVAL OF PLAN OF ACTION.—

12 USC 1715*l* note.

(1) TENANT PROFILE.—Section 225(b)(3)(F)(i) of the Emergency Low Income Housing Preservation Act of 1987 is amended by inserting before the semicolon the following: "(based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing".

(2) SECTION 8 RENTAL ASSISTANCE.—Section 225 of the Emergency Low Income Housing Preservation Act of 1987 is amended by adding at the end the following new subsections:

Contracts.

"(c) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):—

"(1) Modification of the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

"(2) If action under paragraph (1) is not feasible, release of an owner from the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

"(3) If action under paragraphs (1) and (2) would, in the determination of the Secretary, result in the default of the insured loan, approval of the revised plan of action, notwithstanding subsection (a), that involves the termination of low-income affordability restrictions.

At least 30 days prior to making a request under the preceding sentence, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under subsection (b).

"(d) RELOCATION OF DISPLACED TENANTS.—Any plan of action shall specify actions that the Secretary and the owner shall take to ensure that any tenants, displaced as a result of a plan of action approved under subsection (a) or as a result of modifications taken pursuant to subsection (c), are relocated to affordable housing.".

(c) INSURANCE FOR SECOND MORTGAGE FINANCING.—

12 USC 1715z-6.

(1) UNDERWRITING.—Section 241(f)(2) of the National Housing Act is amended by adding at the end the following sentence:

"When underwriting an equity loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 225(b) of the Emergency Low Income Housing Preservation Act of 1987 will be extended for the full term of the contract entered into under section 225(c) of that Act. The Secretary may accelerate repayment of a loan under this section in the event rental assistance is not extended under section 225(c) of that Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.".

(2) ACQUISITIONS BY PUBLIC ENTITIES.—Section 241(f)(3) of the National Housing Act is amended by inserting "public entity," after "A". 12 USC 1715z-6.

(d) LIMITATIONS ON FORECLOSURE.—Section 241(f) of the National Housing Act is amended by adding at the end the following new paragraph:

"(6) If the Secretary is unable to extend the term of rental assistance for the full term of the contract entered into under section 225(c) of the Emergency Low Income Housing Preservation Act of 1987, the Secretary is authorized to take such actions as the Secretary deems to be appropriate to avoid default, avoid disruption of the sound ownership and management of the property or otherwise minimize the cost to the Federal Government.".

SEC. 204. PRESERVATION.

(a) MANAGEMENT AND PRESERVATION OF HUD-OWNED AND HUD-HELD MULTIFAMILY HOUSING PROJECTS.—Section 203(k) of the Housing and Community Development Amendments of 1978 is amended to read as follows: "The Secretary shall annually submit to the Congress on June 1 of each year a report describing the status of multifamily housing projects that are subject to subsection (a), which report shall include— 12 USC 1701z-11. Reports.

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) the proportion of units in a project that are vacant;

"(6) the date on which the Secretary became mortgagee in possession or the date of imposition of any receivership;

"(7) the date and conditions of any foreclosure sale;

"(8) the date of acquisition by the Secretary; and

"(9) the date and conditions of any property disposition sale.

The report shall describe the activities carried out under subsection (e) during the preceding year, and shall contain a description and assessment of the rules, guidelines and practices governing the Department's assumption of management responsibilities in multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to expedite the assumption of management responsibilities of the Department and improve the management performance of tne Department, including the expedited repair and turnover of vacant units.".

(b) REHABILITATION LOANS.—Section 241 of the National Housing Act is amended by inserting the following after subsection (f):

"(g)(1) When underwriting a rehabilitation loan under this section in connection with eligible multifamily housing, the Secretary may assume that any rental assistance provided for purposes of servicing the additional debt will be extended for the term of the rehabilitation loan. The Secretary shall exercise prudent underwriting practices in insuring rehabilitation loans under this section. For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is—

"(A) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act; or

"(C) insured, assisted or held by the Secretary under section 236 of the National Housing Act.

"(2) A mortgagee approved by the Secretary may not withhold consent to a rehabilitation loan insured in connection with eligible multifamily housing on which that mortgagee holds a mortgage.".

12 USC 1715z-1a note.

(c) CAPITAL ASSESSMENT STUDY.—(1) The Secretary of Housing and Urban Development shall conduct a study to determine the physical renovation needs of the Nation's federally-assisted multifamily housing inventory that is distressed and to estimate the cost of correcting deficiencies and subsequently maintaining that inventory in adequate physical condition. The Secretary shall establish criteria to determine what housing qualifies as distressed and such criteria shall include factors such as serious deficiencies in the original design, deferred maintenance, physical deterioration or obsolescence of major systems and other serious deficiencies in the physical plant of a project. The study shall examine and assess the adequacy of existing tools that are available to the Secretary for modernization efforts including—

(A) mortgage insurance for rehabilitation loans under section 241 of the National Housing Act;

(B) operating assistance and capital improvement loans under section 201 of the Housing and Community Development Amendments of 1978 (the "Flexible Subsidy Program"); and

(C) rental assistance under section 8.

The study shall also examine and assess the effectiveness of sanctions that are now available to the Secretary. Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study. The Secretary shall submit to the Congress an interim report containing the information required under paragraph (2) not later than April 1, 1990.

Reports.

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(2) The examination and assessment of the Flexible Subsidy Program required by paragraph (1) shall include—

(A) an accounting of all applications that have been approved or rejected since 1980;

(B) an analysis of all applications that have not been acted upon since 1980 including the length of time such applications have been pending, the amount of assistance requested, and the number of units affected;

(C) an estimate of the funding that will be made available to the Flexible Subsidy Fund under section 201(j) of the Housing

and Community Development Amendments of 1978 in the next three fiscal years; and

(D) an assessment of what additional resources will be needed for the Fund in the next three fiscal years.

(3) The term "federally-assisted multifamily housing" means housing financed by a loan or mortgage that is—

(A) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act; or

(C) insured, assisted or held by the Secretary under section 236 of the National Housing Act.

SEC. 205. REPORT ON PROPERTY DISPOSITION DEMONSTRATION.

The Secretary of Housing and Urban Development shall submit to the Congress, not later than 30 days after the date of enactment of this Act, a report describing the steps that have been and will be taken to implement section 184 of the Housing and Community Development Act of 1987 including a detailed description of—

(1) the efforts taken by the Secretary to solicit participants in the demonstration;

(2) any applications, responses or other expressions of interest submitted by State housing finance agencies;

(3) the reasons for the Secretary's refusal, as of the date of enactment of this Act, to approve such applications; and

(4) the steps that the Secretary has taken and plans to take to ensure that the demonstration is implemented in at least one State within 90 days after the date of enactment of this Act.

SEC. 206. PROHIBITION ON PREPAYMENT OF NEW RURAL HOUSING LOANS.

(a) IN GENERAL.—Section 502(c)(1) of the Housing Act of 1949 is amended— 12 USC 1472.

(1) by inserting "(A)" after "(c)(1)";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph: "(B) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 515 pursuant to a contract entered into on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.".

(b) CONFORMING AMENDMENT.—Section 502(c)(1) of the Housing Act of 1949 is amended—

(1) by striking "after the date of enactment of this subsection," and inserting the following: "after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989,"; and

(2) by striking "after the date of enactment of this subsection and" and inserting the following: "after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and".

SEC. 207. EQUITY TAKEOUT INCENTIVE FOR NEW RURAL HOUSING LOANS.

42 USC 1485.

Section 515 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(t) EQUITY TAKEOUT LOANS.—

"(1) AUTHORITY.—The Secretary is authorized to guarantee an equity loan (in the form of a supplemental loan) to an owner of housing financed with a loan made or insured under subsection (b), only if the Secretary determines, after taking into account local market conditions, that there is reasonable likelihood that the housing will continue as decent, safe, and sanitary housing for the remaining life of the original loan on the project made or insured under subsection (b) and that such an equity loan is—

"(A) necessary to provide a fair return on the owner's investment in the housing;

"(B) the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection; and

"(C) would not impose an undue hardship on tenants or an unreasonable cost to the Federal Government.

The amount of loans guaranteed under this subsection shall be subject to limits provided in appropriations Acts.

"(2) TIMING.—The Secretary is authorized to guarantee an equity loan under this subsection after the expiration of the 20-year period beginning on the date that an existing loan under subsection (b) of this section was made or insured. Not more than one equity loan under this subsection may be provided for any project.

"(3) AMOUNT OF THE TAKEOUT.—The amount of an equity loan under this subsection shall not exceed the difference between the outstanding principal on debt secured by the project and 90 percent of the appraised value of the project. The appraised value of the project shall be determined by 2 independent appraisers, 1 of whom shall be selected by the Secretary and 1 of whom shall be selected by the owner. If the 2 appraisers fail to agree on the value of the project, the Secretary and the owner shall jointly select a third appraiser whose appraisal shall be binding on the Secretary and the owner. The amount of the equity loan shall not exceed 30 percent of the amount of the original loan on the project made or insured under subsection (b).

"(4) RESERVE ACCOUNT PAYMENTS.—For each loan made or insured under subsection (b) pursuant to a contract entered into after the date this subsection takes effect, the owner shall make monthly payments from project income to the Secretary for deposit in a reserve account for the project. Such monthly payments shall, in the first year after the loan is made or insured, equal $2 for each unit in the project, and shall increase by $2 annually until the expiration of the 20-year period beginning on the date that the loan was made or insured, except that such annual increases shall not be required for a unit occupied by a low-income family or individual who is paying more than 30 percent of the family's or individual's adjusted income in rent. The rent on a unit for which payment is made under this paragraph shall be increased by the amount of such payment.

"(5) RESERVE ACCOUNT.—

"(A) Payments under paragraph (4) shall be deposited in an interest bearing account that the Secretary shall establish for the project.

"(B) The Secretary shall make available amounts in the reserve account only for payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 521(a)(2)(A);

"(C) Any payments to the account, and interest on such payments, not expended in the project from which such payments were made, shall be used in other projects to make payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 521(a)(2)(A).

"(D) The Secretary shall make payments from accounts under this paragraph only to the extent provided in appropriations Acts.

"(6) SUBMISSION OF PLAN.—An owner requesting an equity loan under this subsection shall submit a plan acceptable to the Secretary to ensure that the cost of amortizing an equity loan under paragraph (1) does not result in the displacement of very-low-income tenants or substantially alter the income mix of the tenants in the project.

"(7) REGULATIONS.—The Secretary shall issue final regulations within 180 days from the date of enactment of this subsection.

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to any applications for assistance under this section on or after the expiration of 180 days from the date of enactment of this subsection.".

TITLE III—HOUSING PROGRAM EXTENSIONS AND CHANGES

SEC. 301. FLEXIBLE SUBSIDY PROGRAM.

Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1989" and inserting "September 30, 1991". 12 USC 1715z-1.

SEC. 302. CONTINUATION OF PUBLIC HOUSING ECONOMIC RENT.

Section 3(a)(2) of the United States Housing Act of 1937 is amended— 42 USC 1437a.

(1) in subparagraph (A), by striking "3-year" and inserting "5-year"; and

(2) in subparagraph (B)—

(A) by striking "3-year" and inserting "5-year"; and

(B) by adding at the end the following: "The terms of all ceiling rents established prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989 shall be extended for the 5-year period beginning on such date of enactment.".

SEC. 303. EXTENSION OF RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

42 USC 1490o.

Section 535(b) of the Housing Act of 1949 is amended by striking "1-year period beginning on the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988" and inserting the following: "6-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989".

SEC. 304. HODAG AMENDMENT.

42 USC 1437o.

Section 17(d) of the United States Housing Act of 1987 is amended as follows:

"(11) SALE OF UNITS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a project assisted by a development grant awarded pursuant to this section where (i) the grant was originally approved for a nonprofit cooperative, and (ii) a majority of the units in the approved project have 3 or more bedrooms, the nonprofit owner of such project may sell such units for fee simple or condominium ownership if the requirements of subparagraph (B) are met.

"(B) REQUIREMENTS.—The requirements of this subparagraph are that—

"(i) at least 80 percent of the units in the project are initially sold to households with incomes that do not exceed 80 percent of the median income of the area;

"(ii) housing cost to such households shall be initially calculated at not to exceed 30 percent of actual household income;

"(iii) each purchaser agrees that, during the 20-year period following the initial sale, any subsequent resale of the unit shall be to a purchaser whose income does not exceed 80 percent of the median income for the area; and

"(iv) after the 20-year period described in clause (iii), the pro rata grant attributable to a unit, which shall be secured by a deed of trust on the unit, shall be repaid upon any sale, lease, or transfer of any interest in the unit except for a sale of the unit to a purchaser whose income does not exceed 80 percent of the median income of the area.

"(C) REFINANCING.—A refinancing of the unit involving an equity withdrawal shall require a repayment to the extent of the withdrawal not to exceed the pro rata amount of the grant attributable to the unit. A refinancing unrelated to a sale, equity withdrawal, lease, or transfer of interest shall not require repayment.

"(D) ADMINISTRATION.—A homeowner may request grantee approval of a sale, equity withdrawal, or other transfer with postponement of the repayment or without full or partial repayment and grantee may approve if the grantee determines that—

"(i) an undue hardship will result from the application of the repayment requirement, such as where the proceeds are insufficient to repay the loan in full; or

"(ii) postponing repayment is in the interest of neighborhood growth and stability.

"(E) EFFECT OF REPAYMENT.—Upon repayment of the grant, any program requirements affecting the unit shall terminate. The grantee shall use repayments of the grant for low and

moderate income housing as prescribed by the Secretary. Notwithstanding any existing project covenants or inconsistencies with this section, the Secretary shall take all action necessary to implement this paragraph.".

TITLE IV—RURAL HOUSING

SEC. 401. ACCOUNTABILITY IN AWARDS OF ASSISTANCE; REMEDIES AND PENALTIES.

(a) IN GENERAL.—Title V of the Housing Act of 1949 is amended by adding at the end the following:

"ACCOUNTABILITY

"SEC. 536. (a) NOTICE REGARDING ASSISTANCE.—

Federal Register, publication. 42 USC 1490p.

"(1) PUBLICATION OF NOTICE OF AVAILABILITY.—The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary under this title.

"(2) PUBLICATION OF APPLICATION PROCEDURES.—The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be sufficient to enable any eligible applicant to apply for such assistance.

"(3) PUBLICATION OF SELECTION CRITERIA.—Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

"(4) DOCUMENTATION OF DECISIONS.—

"(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

"(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

"(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

State and local governments.

"(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

"(C) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B) is readily available for public inspection for a period of not less than 10 years, beginning not less

Public information.

than 30 days following the date on which the award or allocation is made.

"(5) EMERGENCY EXCEPTION.—The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for adequate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

"(b) DISCLOSURES BY APPLICANTS.—The Secretary shall require the disclosure of information with respect to any application for assistance under this title submitted by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance under this title in excess of $200,000 in the aggregate during any fiscal year. Such information shall include the following:

"(1) OTHER GOVERNMENT ASSISTANCE.—Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance under this title. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

"(2) INTERESTED PARTIES.—The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance under this title or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

Reports.

"(3) EXPECTED SOURCES AND USES.—A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

"(c) UPDATING OF DISCLOSURE.—During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

"(d) REGULATION OF LOBBYISTS AND CONSULTANTS.—

"(1) LIMITATION OF FEES.—Any person who is engaged for pay or for any consideration for the purpose of attempting to influence any award or allocation of assistance by the Secretary shall not seek or receive any fee that is—

"(A) based on the amount of assistance or number of units that may be provided by the Secretary, or

"(B) contingent on an award of assistance by the Secretary, except that professional services related to a project may be donated in whole or in part to a community housing development organization in the event assistance for a project is not awarded.

"(2) REGISTRATION.—Any person who will be engaged for pay or for any consideration for the purpose of attempting to influence any award or allocation of assistance by the Secretary shall, before doing anything in furtherance of such object,

register by submitting to the Secretary a sworn statement containing—

"(A) such person's name and business address,

"(B) the nature and duration of any previous Federal employment,

"(C) the name and address of the person by whom such person is employed, and in whose interest such person appears or works,

"(D) the duration of such employment,

"(E) how much such person is paid and is to receive,

"(F) by whom such person is paid or is to be paid,

"(G) how much such person is to be paid for expenses, and

"(H) what expenses are to be included.

For purposes of this paragraph, ownership by an individual of a single family home financed under section 502 does constitute pay or consideration.

"(3) REPORTING.—Each person registering under paragraph (2) shall, between the first and tenth day of each calendar quarter, so long as such person's activity continues, file with the Secretary a detailed report under oath setting forth—

"(A) all money received and expended by such person during the preceding calendar quarter in carrying on such person's work;

"(B) an identification of the person or persons to whom funds were paid and the purposes of such payments;

"(C) all awards or allocations of assistance under this title that the person attempted to influence; and

"(D) any contacts with any employee of the Department for the purpose of attempting to influence any award or allocation of assistance by the Secretary.

"(e) REMEDIES AND PENALTIES.—

"(1) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b), (c), or (d) this section has occurred, the Secretary shall—

"(A) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

"(B) in the case of a selection that has been made, determine whether to—

"(i) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

"(ii) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

"(iii) recapture any funds that have been disbursed;

"(iv) permit the violating applicant selected to continue to participate in the program; or

"(v) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this paragraph.

"(2) CIVIL PENALTIES.—Whoever violates any section of this section shall be subject to the imposition of a civil penalty in a civil action brought by the United States in an appropriate

district court of the United States. A civil penalty under this paragraph may not exceed—

"(A) $100,000 in the case of an individual; or

"(B) $1,000,000 in the case of an applicant other than an individual.

"(3) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the Rural Housing Insurance Fund.

"(4) NONEXCLUSIVENESS OF REMEDIES.—This subsection may not be construed to limit the applicability of any requirements, sanctions, penalties, or remedies established under any other law. The Secretary shall not be relieved of any obligation to carry out the requirements of this section because such other requirements, sanctions, penalties, or remedies apply.

"(f) LIMITATION OF ASSISTANCE.—The Secretary shall certify that assistance provided by the Secretary to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources. The Secretary shall adjust the amount of assistance provided to an applicant to compensate for any changes reported under subsection (c).

"(g) REGULATIONS.—Not less than 180 days following enactment of this Act, the Secretary shall promulgate regulations to implement this section.

"(h) DEFINITION.—For purposes of this section, the term 'assistance' means any housing grant, loan, guarantee, insurance, rebate, subsidy, tax credit benefit, or other form of direct or indirect assistance.

"(i) REPORT BY THE SECRETARY.—The Secretary shall submit to the Congress, not later than 180 days following the date of enactment of this section, a report describing actions taken to carry out this section, including actions to inform and educate officers and employees of the Department of Agriculture regarding the provisions of this section.".

42 USC 1490p note.

(b) EFFECTIVE DATE.—Section 536 of the Housing Act of 1949, as added by subsection (a), shall take effect on the effective date of regulations implementing such section.

SEC. 402. REUSE OF SECTION 515 LOAN AUTHORITY.

Section 515 of the Housing Act of 1949, as amended by section 207, is amended by adding at the end the following:

"(u) REUSE OF LOAN AUTHORITY.—Loan authority that is obligated under this section but that is not expended due to any action that removes the original borrower, may be reallocated to a different borrower during the same fiscal year in which the loan authority was obligated.".

12 USC 1715z-1a note.

TITLE V—NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SEC. 501. PURPOSE.

The purpose of this title is to establish a National Commission on Severely Distressed Public Housing—

(1) to identify those public housing projects in the Nation that are in a severe state of distress;

(2) to assess the most promising strategies to improve the condition of severely distressed public housing projects that have been implemented by public housing authorities, other Government agencies at the Federal, State, and local level, public housing tenants, and the private sector;

(3) to develop a national action plan to eliminate by the year 2000 unfit living conditions in public housing projects determined by the Commission to be the most severely distressed.

SEC. 502. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Commission on Severely Distressed Public Housing (hereinafter in this title referred to as the "Commission").

SEC. 503. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—(1) The Commission shall be composed of 18 members, appointed not later than 60 days after amounts are appropriated pursuant to section 506 or made available from non-Federal sources. The members shall be as follows:

(A) 6 members to be appointed by the Secretary of Housing and Urban Development;

(B) 6 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the Senate; and

(C) 6 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the House of Representatives.

(2) The Secretary and the congressional leaders referred to in paragraph (1) shall each appoint as member of the Commission—

(A) 2 individuals who are elected public officials at the Federal, State, or local level;

(B) 2 individuals who are local public housing officials or representatives of public housing authorities with experience in eliminating unfit living conditions in severely distressed public housing projects;

(C) 1 individual who is a tenant or a representative of tenants or a tenant organization; and

(D) 1 individual who is a leader of business or labor or is a distinguished academic in the field of housing and urban development.

(b) CHAIRPERSON.—The Commission shall elect a chairperson from among members of the Commission.

(c) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(e) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(f) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

SEC. 504. FUNCTIONS OF THE COMMISSION.

(a) IDENTIFICATION OF SEVERELY DISTRESSED PUBLIC HOUSING PROJECTS.—The Commission shall identify those public housing projects that are in a severe state of distress, giving special attention to projects that—

(1) require major redesign to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(2) are occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

(3) are locations for recurrent vandalism and criminal activity (including drug-related criminal activity);

(4) suffer from management deficiencies, including absence of effective management systems to (A) repair and re-rent vacant units expeditiously; (B) maintain units and common areas; (C) terminate the tenancy of tenants engaged in activity that adversely affects the health, safety, and right to quiet enjoyment of their neighbors; (D) collect rents; (E) encourage tenant participation and cooperation in management and maintenance; and (F) maintain adequate security; and

(5) meet such other criteria that the Commission determines to be evidence of unfit living conditions.

(b) EVALUATION OF ALTERNATIVE STRATEGIES.—The Commission shall assess the most promising strategies to eliminate unfit living conditions in severely distressed public housing projects that have been implemented by public housing authorities, other Government agencies at the Federal, State, and local level, public housing tenants, and the private sector. Such strategies may include but shall not be limited to—

(1) measures to correct management deficiencies;

(2) the provision of supportive services to project residents, and, if necessary, the redesign of projects to accommodate such services;

(3) the redesign of projects to reduce density and otherwise eliminate harmful design elements;

(4) the conversion of projects to mixed-income housing developments; and

(5) the total or partial demolition or disposition of projects. Evaluation of such strategies shall consider efforts to provide for replacement of public housing dwelling units that were demolished, disposed of or otherwise removed from use by low-income persons.

(c) DEVELOPMENT OF NATIONAL ACTION PLAN.—The Commission shall establish a national action plan to eliminate by the year 2000

unfit living conditions in public housing projects identified in subsection (a). The action plan shall—

(1) specify objectives that the Department of Housing and Urban Development could achieve in cooperation with public housing authorities, public housing tenants, and other interested parties;

(2) provide a schedule by which such objectives could be achieved;

(3) recommend any legislative or administrative action that is necessary to achieve such objectives;

(4) make recommendations regarding any necessary replacement of public housing; and

(5) calculate, in accordance with the schedule established above, any impact on Federal expenditures necessary to achieve such objectives.

(d) FINAL REPORT.—Not later than 12 months after the Commission is established pursuant to section 503(a), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the information, evaluations, and recommendations specified above.

SEC. 505. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of this subtitle, including but not limited to comprehensive plans submitted by public housing authorities in accordance with section 14 of the United States Housing Act of 1937, and applications submitted by public housing authorities requesting funds for the major reconstruction of public housing projects in accordance with section 5 of such Act. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may acquire data or information directly from public housing authorities to the same extent the Secretary could acquire such data or information.

(2) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this subtitle.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into

contracts with private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle.

(f) STAFF.—(1) The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title not to exceed $2,000,000 for fiscal year 1990 and $1,000,000 for fiscal year 1991. Funds appropriated under this section shall remain available until expended.

SEC. 507. SUNSET.

The Commission shall terminate upon the expiration of 18 months following the appointment of all the members under section 503(a).

12 USC 1437aa note.

TITLE VI—NATIONAL COMMISSION ON NATIVE AMERICAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

SEC. 601. ESTABLISHMENT.

There is established a Commission to be known as the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing (hereinafter in this section referred to as the "Commission").

SEC. 602. MEMBERSHIP.

(a) APPOINTMENT.—(1) The Commission shall be composed of 12 members, appointed not later than 60 days after amounts are appropriated pursuant to section 605 of this Act or made available from non-Federal sources. The members shall be appointed as follows:

(A) 2 members to be appointed by the Secretary of Housing and Urban Development;

(B) 2 members appointed by the Chairman and the Ranking Minority Member of the Select Committee on Indian Affairs of the Senate;

(C) 3 members appointed by the Chairman and the Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance, and Urban Affairs of the House of Representatives;

(D) 3 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban

Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(E) 1 Native Hawaiian appointed by the Secretary of Housing and Urban Development; and

(F) 1 Native Hawaiian appointed by the Chairman and Ranking Minority Member of the Select Committee on Indian Affairs of the Senate.

(2) Except as provided in paragraph (3), the Secretary and the congressional leaders referred to in subparagraphs (A) through (D) of paragraph (1) shall appoint as members of the Commission individuals who are elected officials of Indian tribes, who are officials of Indian housing authorities, or who have experience in Federal Indian housing programs.

(3) The congressional leaders referred to in subparagraphs (C) and (D) paragraph (1) shall appoint 1 individual under each such clause with experience in housing development and finance.

(4) The members appointed under subparagraphs (E) and (F) of paragraph (1) shall be individuals with experience in the Native Hawaiian community in housing programs available to beneficiaries of the Hawaiian Homes Commission Act of 1920.

(b) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission.

(c) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(d) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(e) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the original manner in which the appointment was made.

(f) PROHIBITION ON ADDITIONAL PAY.—Members on the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(g) TERMINATION.—The Commission shall terminate upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1).

SEC. 603. FUNCTIONS OF THE COMMISSION.

(a) EVALUATION OF CURRENT PROBLEMS.—The Commission shall evaluate the factors currently impeding the development of safe and affordable housing for American Indians, Alaska Natives, and Native Hawaiians, including factors related to tribal administrative capacity, property management, access to financial markets, infrastructure development, and the adequacy of existing housing programs for Indians, Alaska Natives, and Native Hawaiians.

(b) EVALUATION OF ALTERNATIVE STRATEGIES.—The Commission shall assess the most promising strategies for the development, management, and modernization of housing for Indians, Alaska Natives, and Native Hawaiians. The Commission shall, in particular, evaluate housing strategies that have been or could be carried out by Indian housing authorities, public housing authorities, other government agencies at the Federal, State and local level, and the private sector.

(c) DEVELOPMENT OF AN ACTION PLAN.—The Commission shall establish an action plan for American Indian and Alaska Native

housing based upon the assessment in subsections (a) and (b). The action plan shall—

(1) specify objectives that the Department of Housing and Urban Development could achieve in cooperation with Indian housing authorities, Indian tribes, Native Hawaiian organizations, and other interested parties;

(2) provide a schedule by which such objectives could be achieved; and

(3) recommend legislative, regulatory, or administrative action necessary to achieve such objectives.

(d) FINAL REPORT.—Not later than 12 months after the appointment of members of the Commission under section 602(a), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the information, evaluations, and recommendations specified above.

(e) DEFINITION.—As used in this section, the term "Native Hawaiian organization" means any organization which is established and controlled by beneficiaries or eligible beneficiaries under the provisions established by the Hawaiian Homes Commission Act of 1920.

SEC. 604. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may for the purpose of carrying out this title, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of this title. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may require data or information directly from Indian housing authorities to the same extent the Secretary could acquire such data or information.

(2) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this title.

(d) MAILS. —The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING. —The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title.

(f) STAFF.—(1) The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the

Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(3) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $500,000 for each of the fiscal years 1990 and 1991. Any sums so appropriated shall remain available until expended.

TITLE VII—MISCELLANEOUS

SEC. 701. NULLIFICATION OF RIGHT OF REDEMPTION OF SINGLE FAMILY MORTGAGORS UNDER SECTION 312 REHABILITATION LOAN PROGRAM.

Real property. State and local governments. 42 USC 1452c.

(a) IN GENERAL.—Whenever with respect to a single family mortgage securing a loan under section 312 of the Housing Act of 1964, the Secretary of Housing and Urban Development or its foreclosure agent forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to any interests senior to the interests of the Secretary. With respect to properties that are vacant and abandoned, notwithstanding any State law to the contrary, there shall be no right of redemption (including all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with such single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(b) FORECLOSURE BY OTHERS.—Whenever with respect to a single family mortgage on a property that also has a single family mortgage securing a loan under section 312 of the Housing Act of 1964, a mortgagee forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the Secretary of Housing and Urban Development, if the Secretary is purchaser at the foreclosure sale, shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the mortgagee. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) if the mortgagor or any other person subsequent to the foreclosure sale to the Secretary in connection with a property that secured a single family mortgage for a loan under section 312 of the Housing Act of 1964. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the Secretary, who is the purchaser at the fore-

closure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(c) VERIFICATION OF TITLE.—The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(1) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(2) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in paragraph (1) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(2) The term "single family mortgage" means a mortgage that covers property that includes a 1- to 4-family residence.

SEC. 702. CDBG GRANTS TO INDIAN TRIBES.

(a) ELIMINATION FROM DEFINITION OF NONENTITLEMENT AREAS.—Section 102(a)(7) of the Housing and Community Development Act of 1974 is amended by striking the period at the end and inserting the following: "and does not include Indian tribes.".

42 USC 5302.

(b) ALLOCATION.—Section 106 of the Housing and Community Development Act of 1974 is amended—

42 USC 5306.

(1) in subsection (a)—

(A) by inserting "and Indian tribes" before the period at the end of the first sentence; and

(B) by striking the period at the end and inserting the following: "Indian tribes shall receive grants from such allocation pursuant to subsection (b)(7).";

(2) in subsection (b)(1), by striking "The" and inserting "After taking into account the set-aside for Indian tribes under paragraph (7), the";

(3) in subsection (b)(2), by striking "The" and inserting "After taking into account the set-aside for Indian tribes under paragraph (7), the";

(4) in subsection (b), by adding at the end the following new paragraphs:

"(7)(A) For each fiscal year, the Secretary shall reserve for grants to Indian tribes, from amounts approved in appropriation Acts under section 103 for grants for the year under subsection (a), not more than 1 percent of the amounts appropriated under such section.

"(B) 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."; and

(5) in subsection (d), by striking paragraph (4).

(c) OFFICE OF INDIAN AND ALASKA NATIVE PROGRAMS.—The Secretary of Housing and Urban Development shall administer grants to Indian tribes under title I of the Housing and Community Development Act of 1974 through the Office of Indian and Alaska Native Programs of the Department of Housing and Urban Development. 42 USC 5306 note.

(d) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section and the amendments made by this section in a manner and by such time to provide for the effectiveness of such regulations with respect to amounts appropriated for fiscal year 1991 under section 103 of the Housing and Community Development Act of 1974. 42 USC 5306 note.

(e) APPLICABILITY.—The amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1991 and each fiscal year thereafter. 42 USC 5306 note.

TITLE VIII—SECTION 8 RENT ADJUSTMENTS

SEC. 801. ANNUAL ADJUSTMENT FACTORS FOR SECTION 8 RENTS. Contracts.

(a) EFFECT OF PRIOR COMPARABILITY STUDIES.— 42 USC 1437f note.

(1) IN GENERAL.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937—

(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after

fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regulations issued under subsection (e) take effect. For purposes of this paragraph, "debt service" shall include interest, principal, and mortgage insurance premium if any.

(2) APPLICABILITY.—

(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act that is final and not appealable (including any settlement agreement).

42 USC 1437f note.

(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

Appropriation authorization.

(c) COMPARABILITY STUDIES.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C)) is amended by inserting after the period at the end of the first sentence the following: "In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units.".

Regulations.

42 USC 1437f note.

(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determina-

tion of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937, or

(B) calculated in accordance with the first sentence of subsection (a)(1).

(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section, including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. 42 USC 1437f note.

(f) REPORT.—Not later than March 1, 1990, the Secretary shall report to the Congress on the feasibility and desirability, and the budgetary, legal, and administrative aspects, of adjusting contract rents under section 8(c)(2)(C) of the United States Housing Act of 1937 on the basis of any alternative methodologies that are simpler in application than individual project comparability studies.

(g) TECHNICAL AMENDMENT.—The first sentence of section 8(c)(2)(C) of the United States Housing Act of 1937 is amended by inserting ", type," after "quality". 42 USC 1437f.

Approved December 15, 1989.

LEGISLATIVE HISTORY—H.R. 1:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 14, considered and passed House.
Nov. 21, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 15, Presidential statement.