Section 3525, Pub. L. 94–505, title II, § 205, Oct. 15, 1976, 90 Stat. 2432, related to administrative provisions.

Section 3526, Pub. L. 94–505, title II, § 206, Oct. 15, 1976, 90 Stat. 2433, provided for transfer of functions.

Section 3527, Pub. L. 94–505, title II, § 207, Oct. 15, 1976, 90 Stat. 2434; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, defined ''Secretary'', ''Department'', ''Inspector General'', ''Deputy'', and ''Federal agency''.

For transfer of functions under sections 3521 to 3527 to and establishment of the Office of Inspector General of the Department of Health and Human Services, see the Inspector General Act of 1978, Pub. L. 95–452, as amended, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100–504, set out as an Effective Date of 1988 Amendment note under section 5 of Pub. L. 95–452 [Inspector General Act of 1978] in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 44—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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§ 3531. Congressional declaration of purpose

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them.

(Pub. L. 89–174, § 2, Sept. 9, 1965, 79 Stat. 667.)

CODIFICATION

Section was formerly classified to section 624 of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

EFFECTIVE DATE: INTERIM APPOINTMENTS

Section 11 of Pub. L. 89–174 provided that:

''(a) The provisions of this Act [enacting this chapter and amending sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees, section 19(d)(1) of Title 3, the President, section 1723 of Title 12, Banks and Banking and section 1451(c) of this title] shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President [Sept. 9, 1965], or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a), and 4(b) of this Act [sections 3532(a), 3533(a), and 3533(b) of this title] may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President [Sept. 9, 1965].

''(b) In the event that one or more officers required by this Act, to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–235, § 1(a), Dec. 15, 1989, 103 Stat. 1987, provided that: ''This Act [see Tables for classification] may be cited as the 'Department of Housing and Urban Development Reform Act of 1989'.''

SHORT TITLE

Section 1 of Pub. L. 89–174 provided: ''That this Act [enacting this chapter, amending section 1451 of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees (see sections 101 and 5312 of Title 5, Government Organization and Employees), section 19 of Title 3, The President, and section 1723 of Title 12, Banks and Bank-

ing] may be cited as the 'Department of Housing and Urban Development Act'.''

SAVINGS PROVISION: ABATEMENT OF ACTIONS; CONTINUATION OF RULES, REGULATIONS, ETC.; REFERENCES IN OTHER LAWS TO HOUSING AND HOME FINANCE AGENCY; LAPSE OF AGENCIES

Section 9 of Pub. L. 89–174 provided that:

''(a) No cause of action by or against any agency whose functions are transferred by this Act [see Short Title note above and section 3534 of this title], or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

''(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act [see Short Title note above and section 3534 of this title], or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

''(c) Except as may be otherwise expressly provided in this Act [see Short Title note above], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act [see Effective Date note above] by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act [section 3534(a) of this title] shall lapse.''

EXECUTIVE ORDER NO. 11452

Ex. Ord. No. 11452, Jan. 23, 1969, 34 F.R. 1223, as amended, which established the Council for Urban Affairs to advise the President with respect to urban affairs, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. The Council was terminated and its functions transferred to the Domestic Council by section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 501 of Title 31, Money and Finance.

EX. ORD. NO. 11668. NATIONAL CENTER FOR HOUSING MANAGEMENT

Ex. Ord. No. 11668, Apr. 21, 1972, 37 F.R. 8057, provided:

By virtue of the authority vested in me as President of the United States and in accordance with the provisions of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3531 et seq.), title VIII of the Housing Act of 1964, as amended (20 U.S.C. 801 et seq.), and title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 et seq.), it is ordered as follows:

SECTION 1. *Policy*. The Nation's housing stock represents an important national resource which must be preserved and well managed if public and private investments are to be protected, and if we are to meet our goal of providing a decent home and suitable living environment for low and moderate income residents. The production of Federally-assisted housing has greatly expanded in recent years, creating a need for a balanced strategy to ensure that such housing remains viable for the purposes intended.

This expansion also creates a need for a growing supply of new management manpower for the years ahead. Special skills must be developed among these managers so that they can effectively overcome the social and economic problems facing many residents of Federally-assisted housing, including the elderly. Training, the improvement of career opportunities, and the upgrading of industry standards are all essential to the improvement of the Nation's housing management capability, particularly for low and moderate income housing.

SEC. 2. *Establishment of a National Center for Housing Management*. (a) The Secretary of Housing and Urban Development is directed to call upon public-spirited citizens, dedicated and experienced in the appropriate disciplines, to create, in accordance with existing laws, a new, non-governmental, not-for-profit institution to serve as a National Center for Housing Management (referred to herein as the Center).

(b) The Center should be designed to provide objective and independent leadership at the national level in helping meet the Nation's housing management and training needs and should work cooperatively with the Department of Housing and Urban Development and with the public and private organizations and institutions involved in, or affected by, its activities.

SEC. 3. *Activities of the Center*. The activities of the Center should be developed along lines that include the following objectives:

(1) Development of training and educational programs for housing management and personnel:

(2) Cooperation with public and private national, State, and local organizations and institutions in extending housing management training and educational opportunities, using to the fullest extent possible the services and facilities of existing agencies with expertise in training and education.

(3) Cooperation with national, State, and local organizations and institutions in establishing or expanding recruitment and placement systems that will link training in housing management to job opportunities in that field.

(4) Development of improved housing management practices and assistance in professionalizing the housing management industry; and

(5) Stimulating the creation of new management entities, and strengthening the effectiveness of existing management entities.

SEC. 4. *Assistance by Federal Agencies*. To the extent consistent with law, all other Federal executive departments and agencies shall cooperate and work with the Department of Housing and Urban Development and the Center in providing appropriate advice and financial support so as to ensure that the above described objectives are carried out with the most effective and efficient use of Federal, State and local resources, both public and private.

RICHARD NIXON.

§ 3532. Establishment of Department

(a) Designation; appointment and supervision of Secretary

There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the ''Department''). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the ''Secretary''), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered

under the supervision and direction of the Secretary.

(b) General duties of Secretary

The Secretary shall, among his responsibilities, advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State aud[1] local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Denial or limitation of benefits of departmental programs, functions, or activities on basis of population or corporate status of community

Nothing in this chapter shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this chapter or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

(d) Coordination of housing and urban development programs in enterprise zones

The Secretary shall—

(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 11501 of this title;

(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.

(Pub. L. 89–174, § 3, Sept. 9, 1965, 79 Stat. 667; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 100–242, title VII, § 705, Feb. 5, 1988, 101 Stat. 1963.)

[1] So in original. Probably should be "and".

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 667, as amended, known as the Department of Housing and Urban Development Act, which enacted this chapter, amended section 1451 of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees, section 19 of Title 3, The President, and section 1723 of Title 12, Banks and Banking, and enacted provisions set out as notes under section 3531 of this title. Section 1 of former Title 5 was repealed and reenacted as section 101 of Title 5, Government Organization and Employees, and section 2211 of former Title 5 was repealed and reenacted as sections 5312 to 5317 of Title 5 by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables.

CODIFICATION

Section was formerly classified to section 624a of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–242 added subsec. (d).

1967—Subsec. (a). Pub. L. 90–83 struck out provision for compensation of Secretary.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Secretary of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officer of Housing and Home Finance Agency for that office upon nonentry upon the office upon expiration of first period of sixty calendar days following Sept. 9, 1965, or on earlier date specified by Executive order, see section 11 of Pub. L. 89–174, set out as a note under section 3531 of this title.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Housing and Urban Development are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13243, Dec. 18, 2001, 66 F.R. 66262, set out as a note under section 3345 of Title 5, Government Organization and Employees.

OFFICE OF LEAD BASED PAINT ABATEMENT AND POISONING PREVENTION

Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1593, provided in part that: "Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead-Based Paint Abatement and Poisoning Prevention shall be contained within the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Development, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102–107."

Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 753, provided in part: "That there shall be established, in the Office of the Secretary, an Office of Lead Based Paint Abatement and Poisoning Prevention to be headed by a career Senior Executive Service employee who shall be responsible for all lead-based paint abatement and poisoning prevention activities (including, but not limited to, research, abatement, training regulations and policy development): *Provided further*, That such office

shall be allocated a staffing level of twenty staff years.''

CONDOMINIUM AND COOPERATIVE STUDY AND REPORT; SUBMISSION TO CONGRESS

Pub. L. 93–383, title VII, § 821, Aug. 22, 1974, 88 Stat. 740, authorized the Secretary of Housing and Urban Development to conduct a full and complete investigation and study, and report to Congress not later than one year after Aug. 22, 1974, with respect to condominiums and cooperatives, and the problems, difficulties, and abuses or potential abuses applicable to condominium and cooperative housing.

EX. ORD. NO. 11297. COORDINATION OF FEDERAL URBAN PROGRAM

Ex. Ord. No. 11297, Aug. 11, 1966, 31 F.R. 10765, provided:

WHEREAS our Nation has become predominantly urban in character and is confronted by serious problems arising from inherited urban decay and rapid urban growth; and

WHEREAS the living standards and general welfare of its people depend upon the solution of the problems of urban life; and

WHEREAS the Congress has provided in the Department of Housing and Urban Development Act [see Short Title note under section 3531 of this title] that the Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) shall ''advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; and exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development''; and

WHEREAS such activities are closely interrelated with other important Federal activities affecting urban areas so that there is a need for maximum consultation and cooperation among Federal departments and agencies in their administration of programs having impact on urban areas; and

WHEREAS such consultation and cooperation are also essential to enable the Secretary to carry out his responsibilities under that Act to ''provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies . . . with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects''.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Housing and Urban Development*. (a) To assist the Secretary in carrying out his responsibilities pursuant to the Department of Housing and Urban Development Act, he shall convene, or authorize his representatives to convene, meetings at appropriate times and places of the heads, or representatives designated by them, of such Federal departments and agencies with programs affecting urban areas as he deems necessary or desirable for the following purposes:

(1) To provide a forum for consideration of mutual problems concerning Federal programs and activities affecting the development of urban areas and for the exchange of current information needed to achieve coordination of, and to avoid duplication in, such programs and activities.

(2) To promote cooperations among Federal departments and agencies in achieving consistent policies, practices, and procedures for administration of their programs affecting urban areas.

(3) To consult with and obtain the advice of the Federal departments and agencies with respect to:

(A) consultation and cooperation with State Governors and State and local agencies concerning Federal and State programs for assisting communities;

(B) provision of technical information, a clearinghouse service, and other assistance to State and local governments in solving community and metropolitan development problems; and

(C) encouragement of comprehensive planning of, and effective regional cooperation in, local urban, community, and metropolitan development activities.

(4) To identify urban development problems of particular States, metropolitan areas, or communities which require interagency or intergovernmental coordination.

(b) The Secretary shall make arrangements with such Federal departments and agencies for working groups to consider special problems arising with respect to matters described in subsection (a) of this section.

SECTION 2. *Agency responsibilities*. The heads of Federal departments and agencies have programs which have an impact on urban areas, or representatives designated by them, shall participate in meetings convened pursuant to this Order and, to the extent permitted by law and funds available, shall furnish information, at the request of the Secretary, pertaining to programs within the responsibilities of such departments or agencies, and such additional information as will assist the Secretary in providing a clearinghouse service to aid State and local governments in developing solutions to community and metropolitan development problems.

SECTION 3. *Construction*. Nothing in this Order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SECTION 4. *Administrative arrangements*. (a) Each executive department and agency participating under section 1 or section 2 shall furnish necessary assistance for effectuating the provisions of this Order as authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691) [31 U.S.C. 1346(b)].

(b) The Department of Housing and Urban Development shall provide necessary administrative services pursuant to this Order.

LYNDON B. JOHNSON.

§ 3533. Officers of Department

(a) Deputy Secretary, Assistant Secretaries, and General Counsel

There shall be in the Department a Deputy Secretary, eight Assistant Secretaries, and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(b) Federal Housing Commissioner

There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. 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.

(c) Director of Urban Program Coordination; designation; powers and duties; studies of urban and community problems and recommendations for administration of Federal programs affecting such problems

There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) Assistant to Secretary; designation; duty to provide information and advice to nonprofit project sponsors

There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

(e) Special Assistant for Indian and Alaska Native Programs; report to Congress

(1)(A) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be located in the Office of the Assistant Secretary for Public and Indian Housing. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after October 12, 1977.

(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5 governing appointments in the competitive service.

(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] and the provision of assistance to Indian tribes under such Act;

(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

(D) The Secretary shall include in the annual report under section 3536 of this title a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

(B) estimates of the cost of the projected activities for succeeding fiscal years;

(C) a statistical report on the conditions of Indian and Alaska Native housing; and

(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.

(f) Federal Housing Administration Comptroller

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.

(Pub. L. 89–174, § 4, Sept. 9, 1965, 79 Stat. 668; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–284, title VIII, § 808(b)(1), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90–448, title XVII, § 1708(a), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–609, title IX, § 917, Dec. 31, 1970, 84 Stat. 1816; Pub. L. 93–383, title VIII, § 818(a), Aug. 22, 1974, 88 Stat. 740; Pub. L. 95–128, title IX, § 901, Oct. 12, 1977, 91 Stat. 1148; Pub. L. 101–235, title I, §§ 121, 122, 140, Dec. 15, 1989, 103 Stat. 2021, 2030; Pub. L. 101–509, title V, § 529 [title I, § 112(a)(4)], Nov. 5, 1990, 104 Stat.1427, 1454; Pub. L. 101–576, title II, § 205(c)(2), Nov. 15, 1990, 104 Stat. 2845; Pub. L. 102–550, title IX, § 902(a)(1), Oct. 28, 1992, 106 Stat. 3866.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (e)(1)(B), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Housing and Community Development Act of 1974, referred to in subsec. (e)(1)(C)(ii), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 624b of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee, by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1992—Subsec. (e)(1). Pub. L. 102–550 designated existing provisions as subpar. (A), substituted ''located in

the Office of the Assistant Secretary for Public and Indian Housing'' for ''responsible for coordinating all programs of the Department relating to Indian and Alaska Native housing and community development'', and added subpars. (B) through (D).

1990—Subsec. (a). Pub. L. 101–509 substituted ''a Deputy Secretary'' for ''an Under Secretary''.

Subsec. (e). Pub. L. 101–576 struck out subsec. (e), added by section 121 of Pub. L. 101–235, which related to Chief Financial Officer.

1989—Subsec. (a). Pub. L. 101–235, § 140(2), designated second sentence of subsec. (a), relating to appointment, function, and duties of Federal Housing Commissioner, as (b).

Subsec. (b). Pub. L. 101–235, § 140, designated second sentence of subsec. (a), relating to appointment, function, and duties of Federal Housing Commissioner, as subsec. (b) and sentence at end requiring Secretary to ensure that managers are accountable for certain aspects of the programs. Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 101–235, § 140(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101–235, § 140(1), redesignated former subsec. (d), relating to Special Assistant for Indian and Alaska Native Programs, as (e).

Pub. L. 101–235, § 121, added subsec. (e) relating to Chief Financial Officer.

Subsec. (f). Pub. L. 101–235, § 122, added subsec. (f).

1977—Subsec. (d). Pub. L. 95–128 added subsec. (d).

1974—Subsec. (a). Pub. L. 93–383, § 818(a)(1), increased number of Assistant Secretaries from six to eight.

Subsec. (b). Pub. L. 93–383, § 818(a)(2), (3), redesignated former subsec. (c) as (b). Former subsec. (b), which related to appointment and functions of an Assistant Secretary for Administration, was struck out.

Subsecs. (c), (d). Pub. L. 93–383, § 818(a)(3), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

1970—Subsec. (d). Pub. L. 91–609 added subsec. (d).

1968—Subsec. (a). Pub. L. 90–448 increased number of Assistant Secretaries from five to six.

Pub. L. 90–284 increased number of Assistant Secretaries from four to five.

1967—Subsec. (a). Pub. L. 90–83 struck out provision setting compensation for the Under Secretary, Assistant Secretaries, and General Counsel.

Subsec. (b). Pub. L. 90–83 struck out provision covering the compensation to be paid the Assistant Secretary for Administration.

EFFECTIVE DATE OF 1990 AMENDMENT; CONTINUED SERVICE BY INCUMBENTS

Amendment by Pub. L. 101–509 effective on first day of first pay period that begins on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Housing and Urban Development, see section 529 [title I, § 112(e)(1), (2)(D)] of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Under Secretary, Assistant Secretaries, General Counsel, Federal Housing Commissioner, and Assistant Secretary for Administration of Department of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officers of Housing and Home Finance Agency for those offices upon non-entry upon the offices upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11 of Pub. L. 89–174, set out as a note under section 3531 of this title.

TRANSFER OF FUNCTIONS

Section 902(a)(2), (3) of Pub. L. 102–550 provided that:

''(2) TRANSFER OF FUNCTIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act [42 U.S.C. 3533(e)(1)(B)] (as added by paragraph (1) of this subsection).

''(3) STAFF.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).''

OFFICE OF INSPECTOR GENERAL

Functions, powers, and duties of Office of Inspector General in Department of Housing and Urban Development transferred to Office of Inspector General in Department of Housing and Urban Development, as established by Pub. L. 95–452, § 2, Oct. 12, 1978, 92 Stat. 1101, set out in the Appendix to Title 5, Government Organization and Employees. See section 9(a)(1)(G) of Pub. L. 95–452, as amended, set out in Appendix to Title 5.

§ 3533a. Transferred

Section, Pub. L. 90–448, title XI, § 1105(a), Aug. 1, 1968, 82 Stat. 567; Pub. L. 96–153, title VI, § 603(a), Dec. 21, 1979, 93 Stat. 1138, which established in Federal Emergency Management Agency position of Federal Insurance Administrator, was transferred to section 4129 of this title.

§ 3534. Transfer of functions

(a) Housing and Home Finance Agency, Federal Housing Administration, and Public Housing Administration

Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads and other officers and offices of said agencies.

(b) Government National Mortgage Association

The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department.

(c) Studies of organization of housing and urban development functions and programs and recommendations regarding transfer of such functions and programs to or from Department

The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this chapter, none of the functions of the Secretary of the Interior authorized under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.] or other functions carried out by the Bureau of Outdoor

Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of chapter 9 of title 5, or by statute.

(Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–448, title VIII, § 807(c), Aug. 1, 1968, 82 Stat. 544; Pub. L. 102–550, title XIII, § 1352, Oct. 28, 1992, 106 Stat. 3969; Pub. L. 110–289, div. A, title I, § 1161(f), July 30, 2008, 122 Stat. 2780.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of Title 16 and Tables.

CODIFICATION

In subsec. (c) ''chapter 9 of title 5'' substituted for ''the Reorganization Act of 1949, as amended,'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 624c of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–289 struck out subsec. (d) which read as follows: ''Notwithstanding any other provision of this chapter, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office, with any function or program administered by the Secretary.''

1992—Subsec. (d). Pub. L. 102–550 added subsec. (d).

1968—Subsec. (b). Pub. L. 90–448 substituted ''Government National Mortgage Association'' for ''Federal National Mortgage Association'', and struck out provisions which allocated the position of the President of the Federal National Mortgage Association among the positions referred to in section 3535(c) of this title.

1967—Subsec. (b). Pub. L. 90–83 struck out ''and the item numbered (94) of section 303(e) of the Federal Executive Salary Act of 1964 of this title'' after ''The next to the last sentence of section 1723 of title 12'' in repealing provision.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

Pub. L. 89–174, § 9(c), Sept. 9, 1965, 79 Stat. 670, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development, pursuant to the transfer of functions under this section, and that the Housing and Home Finance Agency and the Public Housing Administration, a constituent agency therein, have lapsed.

§ 3535. Administrative provisions

(a) Transfer of personnel, assets, etc.

The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 3534 of this title are hereby transferred with such functions, powers, and duties, respectively.

(b) Repealed. Pub. L. 90–448, title VIII, § 807(d), Aug. 1, 1968, 82 Stat. 544

(c) Employment, compensation, authority, and duties of personnel

The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as shall be necessary to carry out the provisions of this chapter and to prescribe their authority and duties: *Provided*, That any other provision of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions in level V of the Executive Schedule provided by subchapter II of chapter 53 of title 5.

(d) Delegation of authority; rules and regulations

The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(e) Temporary employment of experts or consultants; compensation

The Secretary may obtain services as authorized by section 3109 of title 5, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of title 5. 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.

(f) Working capital fund; establishment; uses; appropriations; capitalization; reimbursement

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such

stock of supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) Seal

The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Financial transactions, finality; checking accounts for funds in Treasury; availability of funds for administrative expenses; consolidation of cash for banking and checking purposes

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasury of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

(i) Foreclosure of property; actions for protection and enforcement of rights; purchase of property; dealing with property after such acquisition; deprivation of State court civil and criminal jurisdiction; impairment of civil rights under State laws; application of section 5 of title 41; annual payments in lieu of local property taxes; sale and exchanges of property; insurance; modification of interest, time for installment payment, and other terms; other covenants, conditions, and provisions

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further*, That section 5 of title 41 shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed $2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary, including any provisions relating to the authority or requirements under paragraph (5).

(j) Fees and charges

Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k) Gifts and services, acceptance; taxable status of property; investments; disbursements

(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest

in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(*l*) Consultants; appointment of advisory committees; compensation and travel expenses

The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(m) Occupancy preference in rental housing for military personnel

Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations.

(n) Day care center for children of employees of Department; establishment; fees and charges

Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.

(*o*) Agenda of rules or regulations under development or review; transmittal to Congress

(1) Notwithstanding any other provision of law, the Secretary shall transmit 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 an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of October 31, 1978, and at least semi-annually thereafter.

(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the 15-calendar day period beginning on the day after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days prior to its being published for comment in the Federal Register.

(B) Any rule or regulation which has not been published for comment before October 31, 1978, and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days prior to its being published for comment.

(3) No rule or regulation may become effective until after the expiration of the 30-calendar day period beginning on the day after the day on which such rule or regulation is published as final. 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.

(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

(5), (6) Repealed. Pub. L. 101–235, title I, § 123(4), Dec. 15, 1989, 103 Stat. 2021.

(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.

(p) Cost-benefit analysis of field reorganizations; requirements, contents, etc.

A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

(2) an estimate of the additional cost which will result from the reorganization;

(3) a study of the impact on the local economy; and

(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services,

where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.

(q) Waiver of regulations

(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.

(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

(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.

(r) Program evaluation and monitoring

(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) and collecting and maintaining data for such purposes. The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program and collecting and maintaining data for such purposes.

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

(A) titles I [42 U.S.C. 1437 et seq.] and II[1] of the United States Housing Act of 1937;

(B) section 202 of the Housing Act of 1959 [12 U.S.C. 1701q];

(C) section 106 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701x];

(D) the Fair Housing Act [42 U.S.C. 3601 et seq.];

(E) title I [42 U.S.C. 5301 et seq.] and section 810[1] of the Housing and Community Development Act of 1974;

(F) section 201 of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1715z–1a];

(G) the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.];

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

(I) section 3616a of this title;

(J) title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11361 et seq.]; and

(K) titles II [42 U.S.C. 12721 et seq.], III, and IV and section 811 [42 U.S.C. 8013] of the Cranston-Gonzalez National Affordable Housing Act.

(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, and collecting and maintaining data 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) and collecting and maintaining data for such purposes.

(4)(A) The Secretary may provide for evaluation and monitoring under this subsection and collecting and maintaining data for such purposes 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) and to collect and maintain data for such purposes through officers and employees of the Department.

(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994. Such amounts shall remain available until expended.

(s) Authorization of appropriations; allocations for staff and training

(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $988,000,000 for fiscal year 1993 and $1,029,496,000 for fiscal year 1994.

(2) Of the amounts authorized to be appropriated by this section, $96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act [12 U.S.C. 1707 et seq.] for housing consisting of 5 or more dwelling units.

(3) Of the amounts authorized to be appropriated to carry out this section, not less than

[1] See References in Text note below.

$5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.

(t) Training regarding issues relating to grandparent-headed and relative-headed families

The Secretary shall ensure that all personnel employed in field offices of the Department who have responsibilities for administering the housing assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or the supportive housing program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and an appropriate number of personnel in the headquarters office of the Department who have responsibilities for those programs, have received adequate training regarding how covered families (as that term is defined in section 202 of the LEGACY Act of 2003) can be served by existing affordable housing programs.

(Pub. L. 89–174, § 7, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90–284, title VIII, § 808(b)(2), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90–448, title VIII, § 807(d), Aug. 1, 1968, 82 Stat. 544; Pub. L. 91–609, title I, § 120(c), title IX, §§ 905, 906, Dec. 31, 1970, 84 Stat. 1775, 1809, 1811; Pub. L. 94–375, §§ 17(d), 21, Aug. 3, 1976, 90 Stat. 1077; Pub. L. 95–557, title III, §§ 316, 324, title IX, § 908, Oct. 31, 1978, 92 Stat. 2099, 2103, 2129; Pub. L. 96–399, title III, § 334(a), Oct. 8, 1980, 94 Stat. 1653; Pub. L. 98–479, title I, § 104(b), Oct. 17, 1984, 98 Stat. 2225; Pub. L. 100–242, title V, § 563(a), Feb. 5, 1988, 101 Stat. 1944; Pub. L. 101–235, title I, §§ 106, 123, 124, 141, Dec. 15, 1989, 103 Stat. 2000, 2021, 2022, 2030; Pub. L. 101–625, title IX, § 954(a), Nov. 28, 1990, 104 Stat. 4420; Pub. L. 102–550, title IX, §§ 902(b), (c), 929, Oct. 28, 1992, 106 Stat. 3867, 3887; Pub. L. 103–233, title I, § 104, Apr. 11, 1994, 108 Stat. 363; Pub. L. 105–362, title VII, § 701(a), Nov. 10, 1998, 112 Stat. 3287; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 108–186, title II, § 204, Dec. 16, 2003, 117 Stat. 2691.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (c) and (*l*), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsec. (c), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

The National Housing Act, referred to in subsecs. (m) and (s)(2), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. Title II of the Act is classified principally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Housing and Urban Development Act of 1965, referred to in subsec. (m), is Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, as amended. Title I of the Housing and Urban Development Act of 1965 enacted sections 1421b, 1466 of this title, and sections 1701q, 1701s, 1735g, 1735h of Title 12, amended sections 1402, 1422, 1451, 1465 of this title, sections 1715c, 1715*l*, 1715n, 1717 of Title 12, and section 1816 [now 3732] of Title 38, Veterans' Benefits, and enacted provisions set out as notes under section 1466 of this title and section 1701q of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12 and Tables.

The Department of Housing and Urban Development Reform Act of 1989, referred to in subsec. (*o*)(3), is Pub. L. 101–235, Dec. 15, 1989, 103 Stat. 1987. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 3531 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (r)(2)(A), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended. Title I of the Act is classified generally to subchapter I (§ 1437 et seq.) of chapter 8 of this title. Title II of the Act, which was classified generally to subchapter II (§ 1437aa et seq.) of chapter 8 of this title, was repealed by Pub. L. 104–330, title V, § 501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Fair Housing Act, referred to in subsec. (r)(2)(D), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I of chapter 45 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (r)(2)(E), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables. Section 810 of the Act which was classified to section 1706e of Title 12, Banks and Banking, was repealed by Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (r)(2)(F), is section 201 of Pub. L. 95–557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z–1a of Title 12, Banks and Banking, and amended section 1715z–1 of Title 12.

The Congregate Housing Services Act of 1978, referred to in subsec. (r)(2)(G), is title IV of Pub. L. 95–557, Oct. 31, 1978, 92 Stat. 2104, as amended, which is classified principally to chapter 89 (§ 8001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8001 of this title and Tables.

Section 222 of the Housing and Urban-Rural Recovery Act of 1983, referred to in subsec. (r)(2)(H), is section 222 of Pub. L. 98–181, which is set out as a note under section 1701z–6 of Title 12, Banks and Banking.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (r)(2)(J), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Title IV of the Act is classified generally to subchapter IV (§ 11361 et seq.) of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (r)(2)(K), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the HOME Investment Partnerships Act, is classified principally to subchapter II (§ 12721 et seq.) of chapter 130 of this title. Title III of the Act enacted subchapter III (§ 12851 et seq.) of chapter 130 of this title and sections 1735f–17 and 1735f–18 of Title 12, Banks and Banking, amended sections 1703, 1708, 1709, 1715d, 1715z–20, 1721, and 1735f–9 of Title 12, and enacted provisions set out as notes under sections 1703, 1709, 1713, and 1735f–18 of Title 12. Title IV of the Act, known as the Homeownership and Opportunity Through HOPE Act, enacted subchapter II–A (§ 1437aaa et seq.) of chapter 8 of this title and subchapter IV (§ 12871 et seq.) of chapter 130 of this title, amended sections 1437c, 1437f, 1437*l*, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Section 202 of the LEGACY Act of 2003, referred to in subsec. (t), is section 202 of Pub. L. 108–186, which is set

out in a note under section 1701q of Title 12, Banks and Banking.

CODIFICATION

In subsec. (c), ''the Executive Schedule provided by subchapter II of chapter 53 of title 5'' substituted for ''the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (e), ''section 3109 of title 5'' substituted for ''section 15 of the Act of August 2, 1946'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5. Prior to the enactment of Title 5, section 15 of the Act of Aug. 2, 1946, was classified to section 55a of former Title 5.

Section was formerly classified to section 624d of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

Subsec. (d) is comprised of the first sentence of subsec. (d) of section 7 of Pub. L. 89–174. The second sentence of subsec. (d) repealed the second proviso of section 1451(c) of this title.

AMENDMENTS

2003—Subsec. (t). Pub. L. 108–186 added subsec. (t).

2000—Subsec. (r)(2)(J). Pub. L. 106–400 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

1998—Subsec. (r)(5), (6). Pub. L. 105–362 redesignated par. (6) as (5) and struck out former par. (5) which read as follows: ''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).''

1994—Subsec. (i)(5). Pub. L. 103–233 struck out before last semicolon ''; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary''.

1992—Subsec. (i)(5). Pub. L. 102–550, § 902(b)(1), inserted before semicolon ''; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary''.

Subsec. (i)(6). Pub. L. 102–550, § 902(b)(2), inserted before period '', including any provisions relating to the authority or requirements under paragraph (5)''.

Subsec. (r)(6). Pub. L. 102–550, § 902(c), amended first sentence generally. Prior to amendment, first sentence read as follows: ''There is authorized to be appropriated to carry out this subsection $25,000,000 for fiscal year 1991.''

Subsec. (s). Pub. L. 102–550, § 929, added subsec. (s).

1990—Subsec. (r)(1). Pub. L. 101–625, § 954(a)(1), inserted ''and collecting and maintaining data for such purposes'' before periods at end of first and last sentences.

Subsec. (r)(2)(K). Pub. L. 101–625, § 954(a)(2), added subpar. (K).

Subsec. (r)(3). Pub. L. 101–625, § 954(a)(3), inserted ''and collecting and maintaining data pursuant to the authority under this subsection,'' after comma and ''and collecting and maintaining data for such purposes'' before period at end.

Subsec. (r)(4)(A). Pub. L. 101–625, § 954(a)(4)(A), inserted ''and collecting and maintaining data for such purposes'' after ''subsection''.

Subsec. (r)(4)(B). Pub. L. 101–625, § 954(a)(4)(B), inserted ''and to collect and maintain data for such purposes'' after ''paragraph (2)''.

1989—Subsec. (e). Pub. L. 101–235, § 141, inserted at end ''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.''

Subsec. (*o*)(2)(A). Pub. L. 101–235, § 123(1), substituted ''15-calendar day period beginning on the day'' for ''first period of 15 calendar days of continuous session of Congress which occurs'' and struck out ''of continuous session'' before ''prior to its being published''.

Subsec. (*o*)(2)(B). Pub. L. 101–235, § 123(2), struck out ''of continuous session of Congress'' before ''prior to its being published''.

Subsec. (*o*)(3). Pub. L. 101–235, § 123(3)(A), substituted ''expiration of the 30-calendar day period beginning on the day'' for ''first period of 30 calendar days of continuous session of Congress which occurs''.

Pub. L. 101–235, § 123(3)(B), substituted ''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.'' for ''If within such 30-day period, either Committee has reported out or been discharged from further consideration of a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, the rule or regulation or portion thereof so addressed shall not become effective for a period of 90 calendar days from the date of Committee action or discharge unless the House to which such Committee reports has rejected such resolution or legislation, in which case the rule or regulation may go into effect only after the expiration of the 30 calendar days described in the first sentence of this paragraph if the other House does not have such a resolution or legislation pending or adopted, and if the requirements of section 553 of title 5 are met.''

Subsec. (*o*)(5). Pub. L. 101–235, § 123(4), struck out par. (5) which read as follows: ''Congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved.''

Subsec. (*o*)(6). Pub. L. 101–235, § 123(4), struck out par. (6) which read as follows: ''For purposes of this subsection—

''(A) continuity of session is broken only by an adjournment of Congress sine die;

''(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress; and

''(C) the term 'rule or regulation' does not include the setting of interest rates pursuant to section 235 or 236 of the National Housing Act.''

Subsec. (q). Pub. L. 101–235, § 106, added subsec. (q).

Subsec. (r). Pub. L. 101–235, § 124, added subsec. (r).

1988—Subsec. (*o*)(7). Pub. L. 100–242 added par. (7).

1984—Subsec. (*o*)(6)(C). Pub. L. 98–479 substituted ''section 235 or 236 of the National Housing Act'' for ''section 3 of Public Law 90–301''.

1980—Subsec. (*o*)(3). Pub. L. 96–399 substituted ''30'' for ''20'' wherever appearing.

1978—Subsec. (n). Pub. L. 95–557, § 316, inserted ''or facilities, or to assist in establishing, equipping, and operating interagency day care facilities'' after ''a day care center facility'', substituted ''any such day care center'' for ''such a day care center'' and inserted provision relating to limited start-up costs in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.

Subsec. (*o*). Pub. L. 95–557, § 324, added subsec. (*o*).

Subsec. (p). Pub. L. 95–557, § 908, added subsec. (p).

1976—Subsec. (c). Pub. L. 94–375, § 17(d), substituted ''six'' for ''seven'' in proviso.

Subsec. (n). Pub. L. 94–375, § 21, added subsec. (n).

1970—Subsec. (e). Pub. L. 91–609, § 906, substituted ''for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of title 5'' for ''not to exceed $100 per diem for individuals''.

Subsecs. (h) to (*l*). Pub. L. 91–609, § 905, added subsecs. (h) to (*l*).

Subsec. (m). Pub. L. 91–609, § 120(c), added subsec. (m).

1968—Subsec. (b). Pub. L. 90–448 repealed subsec. (b) which restricted transfer of functions in connection with secondary market operations of the Federal National Mortgage Association.

Subsec. (c). Pub. L. 90–284 increased from six to seven the number of positions in the Department whose compensation may be fixed at annual rate applicable to positions in level V.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 334(b) of Pub. L. 96–399 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only to rules and regulations which are published as final on or after the date of enactment of this Act [Oct. 8, 1980].''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

REPORT ON SINGLE FAMILY AND MULTIFAMILY HOMES

Pub. L. 105–276, title V, § 591, Oct. 21, 1998, 112 Stat. 2652, provided that:

''(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Oct. 21, 1998], the Inspector General of the Department of Housing and Urban Development shall submit to the Congress a report, which shall include information relating to—

''(1) with respect to 1- to 4-family dwellings owned by the Department of Housing and Urban Development, on a monthly average basis—

''(A) the total number of units in those dwellings;

''(B) the number and percentage of units in those dwellings that are unoccupied, and their average period of vacancy, and the number and percentage of units in those dwellings that have been unoccupied for more than 1 year, as of that date; and

''(C) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

''(i) lack of hot or cold piped water;

''(ii) lack of working toilets;

''(iii) regular and prolonged breakdowns in heating;

''(iv) dangerous electrical problems;

''(v) unsafe hallways or stairways;

''(vi) leaking roofs, windows, or pipes;

''(vii) open holes in walls and ceilings; and

''(viii) indications of rodent infestation; and

''(2) with respect to multifamily housing projects (as that term is defined in section 203 of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z–11]) owned by the Department of Housing and Urban Development on a monthly average basis—

''(A) the total number of units in those projects;

''(B) the number and percentage of units in those projects that are unoccupied, and their average period of vacancy, and the number and percentage of units in those projects that have been unoccupied for more than 1 year, as of that date; and

''(C) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

''(i) lack of hot or cold piped water;

''(ii) lack of working toilets;

''(iii) regular and prolonged breakdowns in heating;

''(iv) dangerous electrical problems;

''(v) unsafe hallways or stairways;

''(vi) leaking roofs, windows, or pipes;

''(vii) open holes in walls and ceilings; and

''(viii) indications of rodent infestation; and

''(3) the Department's plans and operations to address vacancies and substandard physical conditions described in paragraphs (1) and (2).

''(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General

Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3536. Annual reports

The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year. The report required under this section shall include the reports required under paragraphs (2) and (6) of section 3608(e) of this title, the reports required under subsections (a) and (b) of section 4856 of this title, the report required under section 1701*o* of title 12, and the report required under section 3533(e)(2) of this title.

(Pub. L. 89–174, § 8, Sept. 9, 1965, 79 Stat. 670; Pub. L. 106–569, title XI, § 1103(e), Dec. 27, 2000, 114 Stat. 3031.)

CODIFICATION

Section was formerly classified to section 624e of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

2000—Pub. L. 106–569 inserted at end ''The report required under this section shall include the reports required under paragraphs (2) and (6) of section 3608(e) of this title, the reports required under subsections (a) and (b) of section 4856 of this title, the report required under section 1701*o* of title 12, and the report required under section 3533(e)(2) of this title.''

PERFORMANCE GOALS FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Pub. L. 102–550, title IX, § 925(a), Oct. 28, 1992, 106 Stat. 3884, provided that:

''(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act [see Short Title of 1992 Amendment note set out under section 5301 of this title] referred to as the 'Secretary') may establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

''(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

''(3) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

''(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.''

ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING

Pub. L. 100–242, title I, § 166, Feb. 5, 1988, 101 Stat. 1864, as amended by Pub. L. 101–625, title IX, § 954(b), Nov. 28, 1990, 104 Stat. 4420, provided that:

''(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act [probably means section 8 of the Department of Housing and Urban Development Act, 42 U.S.C. 3536] descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (other than subsection (*o*) of such section), section 8(*o*) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959 [12 U.S.C. 1701q].

''(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

''(1) family size, including the number of children;

''(2) amount and sources of family income;

''(3) the age, race, and sex of family members; and

''(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

''(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act [42 U.S.C. 3536].''

§ 3537. Separability

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this chapter, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other persons and circumstances, but shall be confined in its operation to the provision of this chapter, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

(Pub. L. 89–174, § 10, Sept. 9, 1965, 79 Stat. 671.)

CODIFICATION

Section was formerly classified to section 624f of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 1, 1966, 80 Stat. 378.

§ 3537a. Prohibition of advance disclosure of funding decisions

(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.

(b) Administrative remedies

If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) of this section 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) of this section, 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 December 15, 1989, 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.

(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) of this section by making a disclosure prohibited by subsection (a) of this section 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, 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 December, 15, 1989.

(Pub. L. 89–174, § 12, as added Pub. L. 101–235, title I, § 103, Dec. 15, 1989, 103 Stat. 1995.)

§ 3537b. Repealed. Pub. L. 104–65, § 11(b)(1), Dec. 19, 1995, 109 Stat. 701

Section, Pub. L. 89–174, § 13, as added Pub. L. 101–235, title I, § 112, Dec. 15, 1989, 103 Stat. 2016; amended Pub. L. 102–550, title IX, § 926, Oct. 28, 1992, 106 Stat. 3885, related to registration of and reports by persons spending money to influence Department decisions.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

§ 3537c. Prohibition of lump-sum payments

In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

(1) moving expenses;

(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

(3) any incidental expenses related to paragraph (1) or (2).

(Pub. L. 89–174, § 14, as added Pub. L. 102–550, title IX, § 922, Oct. 28, 1992, 106 Stat. 3884.)

§ 3538. Rescheduling and refinancing of Federal loans

The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955 [12 U.S.C. 1701g–5], where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

(Pub. L. 91–606, title II, § 236(b), Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

The Independent Offices Appropriation Act of 1955, referred to in text, is act June 24, 1954, ch. 359, 68 Stat. 272. Provisions of the act which established the revolving fund for liquidating programs are classified to section 1701g–5 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Department of Housing and Urban Development Act which comprises this chapter.

Section was formerly classified to section 4455(b) of this title.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 3539. Housing and Urban Development Disaster Assistance Fund

The Secretary of Housing and Urban Development is authorized to establish a fund and to transfer to such fund from appropriations or funds available to the Department of Housing and Urban Development, such amounts as may be necessary to provide disaster assistance for which the Secretary has been requested by the President to make resources available pursuant to the authority of the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

(Pub. L. 92–383, title IV, § 406, Aug. 14, 1972, 86 Stat. 553; 1973 Reorg. Plan No. 1, §§ 1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Ex. Ord. No. 11749, § 2(1), Dec. 10, 1973, 38 F.R. 34177; Ex. Ord. No. 12148, § 4–201, July 20, 1979, 44 F.R. 43239; Pub. L. 100–707, title I, § 109(s), Nov. 23, 1988, 102 Stat. 4710.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Department of Housing and Urban Development Act which comprises this chapter.

Section was formerly classified to section 4413a of this title.

AMENDMENTS

1988—Pub. L. 100–707 substituted ''Disaster Relief and Emergency Assistance Act'' for ''Disaster Relief Act of 1970 (84 Stat. 1744)''.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

''President'' substituted in text for ''Director of the Office of Emergency Preparedness'' pursuant to section 1 of Reorganization Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

Previously, functions of Director of Office of Emergency Preparedness under Disaster Relief Act of 1970, transferred to President by Reorg. Plan No. 1 of 1973, had been transferred to Secretary of Housing and Urban Development by Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, which superseded Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, which had provided for a similar transfer to Secretary of Housing and Urban Development. Both of these Executive Orders were subsequently revoked, see Delegation of Functions note below.

Office of Emergency Preparedness [formerly Office of Emergency Planning], including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President of United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions of President under Disaster Relief Act of 1970 delegated to Secretary of Homeland Security by section 4–201 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended, set out as a note under section 5195 of this title. Sections 5–112 and 5–113 of Ex. Ord. No. 12148, revoked Ex. Ord. Nos. 11725 and 11749, respectively, which had previously transferred President's functions under Disaster Relief Act of 1970 to Secretary of Housing and Urban Development. See Transfer of Functions note above.

§ 3540. Repealed. Pub. L. 100–242, title IV, § 420, Feb. 5, 1988, 101 Stat. 1913

Section, Pub. L. 95–128, title IX, § 904, Oct. 12, 1977, 91 Stat. 1149, required annual publication of prototype housing costs for one- to four-family dwelling units.

§ 3541. Paperwork reduction

(a) Declaration of policy

The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multi-family programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b) Uniform legal and other forms for use by agencies in housing programs

(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage forms;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.]; and

(F) such other consolidated or simplified forms, particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and the Secretary of Veterans Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of such programs.

(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available from other available sources through indexing or other means of identifying such forms.

(3) Each agency referred to in subsection (b) of this section may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(c) Coordination and reports by Director of Office of Management and Budget

The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) of this section and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93–556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.

(Pub. L. 95–557, title IX, § 905, Oct. 31, 1978, 92 Stat. 2126; Pub. L. 96–153, title III, § 328, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 98–479, title II, § 204(n)(4), Oct. 17, 1984, 98 Stat. 2234; Pub. L. 102–54, § 13(q)(10), June 13, 1991, 105 Stat. 281.)

REFERENCES IN TEXT

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (b)(1)(E), is Pub. L. 93–533, Dec. 22, 1974, 88 Stat. 1724, as amended, which is classified principally to chapter 27 (§ 2601 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 12 and Tables.

Public Law 93–556, referred to in subsec. (c), is Pub. L. 93–556, Dec. 27, 1974, 88 Stat. 1789, which is set out as a note under section 3501 of Title 44, Public Printing and Documents.

CODIFICATION

Section was not enacted as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

1991—Subsec. (b)(1), (2). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs'' wherever appearing.

1984—Subsec. (b)(1)(E). Pub. L. 98–479 inserted ''of 1974'' after ''Act''.

1979—Subsec. (a). Pub. L. 96–153 reenacted subsec. (a) without change.

Subsec. (b). Pub. L. 96–153 substituted, in provision preceding par. (1)(A), ''Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, consistent with provisions of law governing the conduct of housing programs,'' for ''Insofar as it is practicable and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall'', inserted reference to Secretary of Agriculture in par. (1)(F), added par. (2), redesignated former par. (2) as (3), and struck out former par. (3), which authorized the President to require the Farmers Home Administration and Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by that agency.

Subsec. (c). Pub. L. 96–153 inserted provision requiring the reports to include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.

§ 3542. Public notice and comment regarding demonstration programs not expressly authorized in law

(a) No demonstration program not expressly authorized in law may be commenced by the Secretary of Housing and Urban Development until (1) a description of such demonstration program is published in the Federal Register, which description may be included in a notice of funding availability; and (2) there expires a period of sixty calendar days following the date of such publication, during which period the Secretary shall fully consider any public comments submitted with respect to such demonstration program.

(b) Nothing in this section may be considered to authorize the conducting of any demonstration program by the Secretary of Housing and Urban Development.

(Pub. L. 98–181, title IV, § 470, Nov. 30, 1983, 97 Stat. 1237.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1984, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§ 3543. Preventing fraud and abuse in Department of Housing and Urban Development programs

(a) Disclosure of social security account number

As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) Definitions

For purposes of this section, the terms ''applicant'' and ''participant'' shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(Pub. L. 100–242, title I, § 165, Feb. 5, 1988, 101 Stat. 1864.)

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§ 3544. Preventing fraud and abuse in housing and urban development programs

(a) Definitions

As used in this section:

(1) Secretary

The term ''Secretary'' means the Secretary of Housing and Urban Development.

(2) Applicant; participant

The terms ''applicant'' and ''participant'' shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant's or participant's household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) Public housing agency

The term ''public housing agency'' means any agency described in section 3(b)(6) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(6)].

(4) Program of the Department of Housing and Urban Development

The term ''program of the Department of Housing and Urban Development'' includes Indian housing programs assisted under title II[1] of the United States Housing Act of 1937.

(b) Applicant and participant consent

As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits;

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant;

(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(*l*)(7)(D)(ix) of title 26 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits; and

(4) only in the case of an applicant or participant that is a member of a family described in section 3(f)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(f)(2)), sign an agreement under which the applicant or participant agrees to provide to the appropriate public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, the information required under section 3(f)(1) of such Act [42 U.S.C. 1437a(f)(1)] for the sole purpose of verifying income information pertinent to the applicant's or participant's eligibility or level of benefits, and comply with such agreement.

Except as provided in this subsection, this consent form shall not be used to request taxpayer return information protected by section 6103 of title 26.

(c) Access to records

(1) Omitted

(2) Applicant and participant protections

(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 503(i) of this title from the State agency charged with the administration of the State unemployment compensation law, pursuant to section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)] from the ap-

[1] See References in Text note below.

plicant or participant, or pursuant to section 6103(*l*)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury, officers and employees of the Department of Housing and Urban Development and (in the case of information obtained pursuant to such section 503(i) or 3(d)(1) [42 U.S.C. 1437a(d)(1)]) representatives of public housing agencies may only use such information—

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner or public housing agency responsible for determining eligibility for or level of benefits, to inform such owner or public housing agency that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner or public housing agency to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages, other earnings or income, or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages, other earnings or income, or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) Penalty

(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 503(i) of this title, section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)], or section 6103(*l*)(7)(D)(ix) of title 26 without consent or agreement, as applicable, pursuant to subsection (b) of this section or under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term ''person'' as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section, section 503(i) of this title, section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)], or section 6103(*l*)(7)(D)(ix) of title 26 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], such section 6103(*l*)(7)(D)(ix), or any regulation implementing this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], or such section 6103(*l*)(7)(D)(ix), or for which consent, pursuant to subsection (b) of this section, has not been granted, or (ii) any other negligent or knowing action that is inconsistent with this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], such section 6103(*l*)(7)(D)(ix), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(d) Effective date

(1) In general

Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) Optional early implementation

At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after November 7, 1988.

(3) Requirements for State agencies

In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between November 7, 1988, and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 calendar days after the first day on which such legislature is in session on or after September 30, 1989.

(e) Conditions of release of information by third parties

An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

(1) the request for consent is made, and the information secured is maintained, in accord-

ance with this section,[2] section 552a of title 5; and

(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.

(Pub. L. 100–628, title IX, § 904, Nov. 7, 1988, 102 Stat. 3259; Pub. L. 102–550, title IX, § 903(a), Oct. 28, 1992, 106 Stat. 3867; Pub. L. 103–66, title III, § 3003, Aug. 10, 1993, 107 Stat. 338; Pub. L. 105–276, title V, § 508(d)(2), Oct. 21, 1998, 112 Stat. 2529; Pub. L. 106–74, title II, § 214(b), Oct. 20, 1999, 113 Stat. 1074.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(4), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended. Title II of the Act, which was classified generally to subchapter II (§ 1437aa et seq.) of chapter 8 of this title, was repealed by Pub. L. 104–330, title V, § 501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The amendments made by subsection (c)(1), referred to in subsec. (d)(2), (3), mean the amendments made by section 904(c)(1) of Pub. L. 100–628, which enacted section 503(i) and amended section 504(a)(2) of this title. See Codification note below.

CODIFICATION

Section is comprised of section 904 of Pub. L. 100–628. Subsec. (c)(1) of section 904 of Pub. L. 100–628 amended sections 503 and 504 of this title.

Section was enacted as part of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (b)(4). Pub. L. 106–74 inserted ", or the owner responsible for determining the participant's eligibility or level of benefits," after "appropriate public housing agency" and substituted "verifying income" for "the public housing agency verifying income".

1998—Subsec. (b)(4). Pub. L. 105–276, § 508(d)(2)(A), which directed the amendment of subsec. (b) by adding par. (4) at end, was executed by adding par. (4) after par. (3), to reflect the probable intent of Congress.

Subsec. (c)(2)(A). Pub. L. 105–276, § 508(d)(2)(B)(i), in introductory provisions, inserted ", pursuant to section 3(d)(1) of the United States Housing Act of 1937 from the applicant or participant," after "unemployment compensation law" and "or 3(d)(1)" after "such section 503(i)".

Subsec. (c)(3)(A). Pub. L. 105–276, § 508(d)(2)(B)(ii)(I), (II), in first sentence, inserted ", section 3(d)(1) of the United States Housing Act of 1937," after "503(i) of this title" and "or agreement, as applicable," after "consent".

Subsec. (c)(3)(B). Pub. L. 105–276, § 508(d)(2)(B)(ii)(III), (IV), in first sentence, inserted "section 3(d)(1) of the United States Housing Act of 1937," after "503(i) of this title," and "such section 3(d)(1)," after "such section 503(i)," wherever appearing.

1993—Subsec. (a)(4). Pub. L. 103–66, § 3003(1), added par. (4).

Subsec. (b). Pub. L. 103–66, § 3003(2)(D), in concluding provisions, substituted "Except as provided in this subsection, this" for "This".

Subsec. (b)(3). Pub. L. 103–66, § 3003(2)(A)–(C), added par. (3).

Subsec. (c). Pub. L. 103–66, § 3003(5), struck out "State employment" after "Access to" in heading.

Subsec. (c)(2)(A). Pub. L. 103–66, § 3003(3)(A)(i), in introductory provisions, inserted "or pursuant to section 6103(*l*)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury" after "compensation law" and "(in the case of information obtained pursuant to such section 503(i))" before "representatives".

Subsec. (c)(2)(A)(ii). Pub. L. 103–66, § 3003(3)(A)(ii), substituted "owner or public housing agency" for "owner" wherever appearing.

Subsec. (c)(2)(B)(i) to (iii). Pub. L. 103–66, § 3003(3)(B), substituted "wages, other earnings or income," for "wages" wherever appearing.

Subsec. (c)(3)(A). Pub. L. 103–66, § 3003(4)(A), inserted "or section 6103(*l*)(7)(D)(ix) of title 26 without consent pursuant to subsection (b) of this section or" after "section 503(i) of this title".

Subsec. (c)(3)(B)(i). Pub. L. 103–66, § 3003(4)(B)(i), added cl. (i) and struck out former cl. (i) which read as follows: "a negligent or knowing disclosure of information referred to in this section or in section 503(i) of this title about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 503(i), or any regulation implementing this section or such section 503(i), or".

Subsec. (c)(3)(B)(ii). Pub. L. 103–66, § 3003(4)(B)(ii), inserted "such section 6103(*l*)(7)(D)(ix)," after "503(i)".

1992—Subsec. (e). Pub. L. 102–550 added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

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

RELEASE FORMS

Section 903(b) of Pub. L. 102–550 directed Secretary of Housing and Urban Development, not later than the expiration of the 180-day period beginning Oct. 28, 1992, to develop a release form that fulfilled the requirements of this section and provided that during the period beginning Oct. 28, 1992, and ending upon implementation of the use of the new form, the benefits provided to an applicant or participant under any program of Department of Housing and Urban Development, or eligibility for such benefits, could not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party, if the applicant or participant otherwise disclosed all financial information relating to the application or recertification.

§ 3545. HUD accountability

(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

[2] So in original. The comma probably should be "and".

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 1439 of this title, 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

(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:

(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 1439(d)(1)(A) of this title.

(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.

(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.

(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.

(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, as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.)[1] 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) of this section. The Secretary shall adjust the amount of such 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) of this section.

(e) Administrative remedies

If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b) or (c) of this section 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.

(f) Civil money penalties

(1) In general

Whenever any person knowingly and materially violates any provision of subsection (b) or (c) of this section, 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) In general

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (f) of this section. 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) of this section, 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) of this section shall not be subject to review, except as provided in subsection (h) of this section.

(h) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (g)(1) of this section, a person against whom the Secretary has imposed a civil money penalty under subsection (f) of this section 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) of this section 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) of this section 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.

[1] So in original. Probably should be followed by a comma.

(3) Scope of review

The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5.

(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 penalty

If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (f) of this section, after the determination or order is no longer subject to review as provided by subsections (g)(1) and (h) of this section, 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 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.

(Pub. L. 101–235, title I, § 102, Dec. 15, 1989, 103 Stat. 1990; Pub. L. 110–289, div. B, title VIII, § 2834(a), July 30, 2008, 122 Stat. 2869.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (d), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

CODIFICATION

Section was enacted as part of the Department of Housing and Urban Development Reform Act of 1989, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–289 inserted '', as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.)'' after ''Department'' and ''such'' after ''amount of''.

SUBSIDY LAYERING REVIEW

Pub. L. 102–550, title IX, § 911, Oct. 28, 1992, 106 Stat. 3875, as amended by Pub. L. 103–233, title III, § 308, Apr. 11, 1994, 108 Stat. 379, provided that:

''(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545(d)] may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing.

''(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

''(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

''(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

''(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

''(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

''(2) shall carry out section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545(d)] relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42].

''(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and

Urban Development Reform Act [probably should be Department of Housing and Urban Development Reform Act of 1989, enacted Dec. 15, 1989].''

§ 3546. Use of domestic products

(a) Prohibition against fraudulent use of "Made in America" labels

A person shall not intentionally affix a label bearing the inscription of ''Made in America'', or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) Report

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) "Domestic product" defined

For the purposes of this section, the term ''domestic product'' means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

(Pub. L. 102–550, title IX, § 920, Oct. 28, 1992, 106 Stat. 3883.)

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1992, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§ 3547. Special projects

(1) In general

(A) Release of funds

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head ''Annual Contributions for Assisted Housing'' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(B) Implementation

The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

(i) provide for monitoring of the performance of environmental reviews under this section;

(ii) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(iii) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

(C) Responsibilities of State or unit of general local government

The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under subparagraph (A).

(2) Procedure

The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(3) Certification

A certification under the procedures authorized by this section shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(C) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under paragraph (1); and

(D) specify that the certifying officer—

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1); and

(ii) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the ju-

risdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(4) Approval by States

In cases in which a unit of general local government carries out the responsibilities described in paragraph (1), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (2) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of paragraph (2).

(Pub. L. 103–233, title III, § 305(c), Apr. 11, 1994, 108 Stat. 372.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in pars. (1)(A), (2), and (3)(D)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, referred to in par. (1)(A), is Pub. L. 102–389, Oct. 6, 1992, 106 Stat. 1571. Provisions under the head ''Annual Contributions for Assisted Housing'' in title II of the Act appear at 106 Stat. 1582 and are not classified to the Code. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Multifamily Housing Property Disposition Reform Act of 1994, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§ 3548. Semiannual report on contracts and task orders

The Secretary shall submit semi-annually to the Committees on Appropriations a list of all contracts and task orders issued under such contracts in excess of $250,000 which were entered into during the prior 6-month period by the Secretary, the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight (or by any officer of the Department of Housing and Urban Development, the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight acting in his or her capacity to represent the Secretary or these entities). Each listing shall identify the parties to the contract, the term and amount of the contract, and the subject matter and responsibilities of the parties to the contract.

(Pub. L. 105–18, title II, § 10001, June 12, 1997, 111 Stat. 201.)

CODIFICATION

Section was enacted as part of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§ 3549. Investigation of violations

Notwithstanding any other provision of law, on and after February 20, 2003, the Chief Financial Officer of the Department of Housing and Urban Development shall, in consultation with the Budget Officer, have sole authority to investigate potential or actual violations under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.) and all other statutes and regulations related to the obligation and expenditure of funds made available in this, or any other Act; shall determine whether violations exist; and shall submit final reports on violations to the Secretary, the President, the Office of Management and Budget and the Congress in accordance with applicable statutes and Office of Management and Budget circulars.

(Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 499.)

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003, and also as part of the Consolidated Appropriations Resolution, 2003, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

DUTIES OF CHIEF FINANCIAL OFFICER

Pub. L. 109–115, div. A, title III, Nov. 30, 2005, 119 Stat. 2457, which provided that the Chief Financial Officer establish control of and maintain adequate systems of accounting for appropriations and other available funds as required by 31 U.S.C. 1514, and further provided that, for purposes of funds control and Anti-Deficiency Act (31 U.S.C. 1341 et seq.) violation determinations, the point of obligation was to be the executed agreement or contract, with certain exceptions, and that the Chief Financial Officer was to appoint and train qualified personnel to conduct investigations, establish guidelines and timeframes for such investigations, prescribe requirements for final reports on violations, and prescribe procedures for conducting investigations of, and reporting on, Anti-Deficiency Act violations, was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. I, title II, Dec. 8, 2004, 118 Stat. 3312.

Pub. L. 108–199, div. G, title II, Jan. 23, 2004, 118 Stat. 389.

Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 499, as amended by Pub. L. 108–199, div. G, title II, Jan. 23, 2004, 118 Stat. 389.

CHAPTER 45—FAIR HOUSING

SUBCHAPTER I—GENERALLY

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