



1 “DEMOLITION AND DISPOSITION OF PUBLIC HOUSING

2 “SEC. 18. (a) CONDITION OF HOUSING.—The Sec-  
3 retary may approve an application by a public housing  
4 agency for permission to demolish or dispose of a public  
5 housing project or a portion of a public housing project  
6 only if the Secretary has determined that—

7 “(1) in the case of—

8 “(A) an application proposing demolition  
9 of a public housing project or a portion of a  
10 public housing project, the project or portion of  
11 the project is obsolete as to physical condition,  
12 location, or other factors, and it is more cost ef-  
13 fective to replace the project or portion of the  
14 project than to rehabilitate the project or por-  
15 tion of the project; or

16 “(B) an application proposing the demoli-  
17 tion of only a portion of a project, the demoli-  
18 tion will help to assure the remaining useful life  
19 of the remaining portion of the project;

20 “(2) in the case of an application proposing dis-  
21 position of real property of a public housing agency  
22 by sale or other transfer—

23 “(A)(i) the property’s retention is not in  
24 the best interests of the tenants or the public  
25 housing agency because—

1           “(I) developmental changes in the  
2           area surrounding the project adversely af-  
3           fect the health or safety of the tenants or  
4           the feasible operation of the project by the  
5           public housing agency;

6           “(II) disposition will allow the acquisi-  
7           tion, development, or rehabilitation of  
8           other properties which will be more effi-  
9           ciently or effectively operated as low-in-  
10          come housing and which will (a) preserve  
11          the total amount of low-income housing  
12          stock available in the community, or (b)  
13          create housing sufficient to address the  
14          needs of the community as described in the  
15          comprehensive housing affordability strat-  
16          egy (under section 105 of the Cranston-  
17          Gonzalez National Affordable Housing  
18          Act), if such needs are less than the  
19          amount needed to preserve the amount of  
20          low-income housing stock; or

21          “(III) of other factors which the Sec-  
22          retary determines are consistent with the  
23          best interests of the tenants and public  
24          housing agency and which are not incon-

1           sistent with other provisions of this Act;

2           and

3           “(ii) for property other than dwelling  
4 units, the property is excess to the needs of a  
5 project or the disposition is incidental to, or  
6 does not interfere with, continued operation of  
7 a project; and

8           “(B) the net proceeds of the disposition  
9 will be used—

10           “(i) for the payment of development  
11 costs for the replacement housing;

12           “(ii) to the extent that any proceeds  
13 remain after the application of proceeds in  
14 accordance with clause (i), for the retire-  
15 ment of outstanding obligations issued to  
16 finance original development or moderniza-  
17 tion of the project, which, in the case of  
18 scattered-site housing of a public housing  
19 agency, shall be in an amount that bears  
20 the same ratio to the total of such costs  
21 and obligations as the number of units dis-  
22 posed of bears to the total number of units  
23 of the project at the time of disposition;  
24           and

1           “(iii) to the extent that any proceeds  
2           remain after the application of proceeds in  
3           accordance with clauses (i) and (ii), the  
4           provision of housing assistance for low-in-  
5           come families through such measures as  
6           modernization of low-income housing, or  
7           the acquisition, development, or rehabilita-  
8           tion of other properties to operate as low-  
9           income housing; or

10           “(3) in the case of an application proposing  
11           demolition or disposition of any portion of a public  
12           housing project, assisted at any time under section  
13           5(j)(2)—

14           “(A) such assistance has not been provided  
15           for the portion of the project to be demolished  
16           or disposed within the 10-year period ending  
17           upon submission of the application; or

18           “(B) the property’s retention is not in the  
19           best interest of the tenants or the public hous-  
20           ing agency because of changes in the area sur-  
21           rounding the project or other circumstances of  
22           the project, as determined by the Secretary.

23           “(b) TENANT INVOLVEMENT AND REPLACEMENT  
24           HOUSING.—The Secretary may approve an application or

1 furnish assistance under this section or under this Act  
2 only if the following requirements are met:

3           “(1) TENANT CONSULTATION AND EMPLOY-  
4           MENT.—The application from the public housing  
5           agency—

6                   “(A) has been developed in consultation  
7                   with tenants and tenant councils, if any, who  
8                   will be affected by the demolition or disposition;

9                   “(B) includes a plan to employ public  
10                  housing tenants in construction or rehabilita-  
11                  tion to the extent practicable, pursuant to sec-  
12                  tion 3 of the Housing and Urban Development  
13                  Act of 1968; and

14                  “(C) contains a certification by appropriate  
15                  local government officials that the proposed ac-  
16                  tivity is consistent with the applicable com-  
17                  prehensive housing affordability strategy.

18           “(2) RELOCATION ASSISTANCE.—All tenants to  
19           be relocated as a result of the demolition or disposi-  
20           tion will be provided assistance by the public housing  
21           agency and are relocated to other decent, safe, sani-  
22           tary, and affordable housing, which is, to the maxi-  
23           mum extent practicable, housing of their choice, in-  
24           cluding housing assisted under section 8 of this Act.

1           “(3) REPLACEMENT HOUSING.—Except as pro-  
2           vided under subsections (c)(1) and (i), the public  
3           housing agency has developed, and the Secretary has  
4           approved, a plan that provides for additional decent,  
5           safe, sanitary, and affordable dwelling units for each  
6           public housing dwelling unit to be demolished or dis-  
7           posed under such application. Such a plan—

8                   “(A) shall provide for the provision of such  
9                   additional dwelling units through—

10                           “(i) the acquisition or development of  
11                           additional public housing dwelling units;

12                           “(ii) the use of 15-year project-based  
13                           assistance under section 8;

14                           “(iii) in the case of an application  
15                           proposing demolition or disposition of 200  
16                           or more units, the use of tenant-based as-  
17                           sistance under section 8 having a term of  
18                           not less than 5 years;

19                           “(iv) for not more than 10 percent of  
20                           the replacement units, units acquired or  
21                           otherwise provided for homeownership (in-  
22                           cluding cooperative and condominium in-  
23                           terests) by public housing tenants under  
24                           section 5(h), subtitle B or C of title IV of  
25                           the Cranston-Gonzalez National Affordable

1 Housing Act, or other programs for home-  
2 ownership that have program requirements  
3 substantially equivalent to the require-  
4 ments established under section 605 of the  
5 Housing and Community Development Act  
6 of 1987;

7 “(v) for not more than 10 percent of  
8 the replacement units, affordable housing  
9 homeownership units assisted under title II  
10 of the Cranston-Gonzalez National Afford-  
11 able Housing Act and sold to public hous-  
12 ing tenants;

13 “(vi) rental units that are assisted  
14 under—

15 “(I) title II of the Cranston-Gon-  
16 zalez National Affordable Housing  
17 Act (notwithstanding section  
18 212(d)(2) of such Act), or

19 “(II) a State or local rental as-  
20 sistance program that provides for  
21 rental assistance that is comparable in  
22 terms of eligibility and contribution to  
23 rent to assistance under section 8;

24 except that, if such assistance is project-  
25 based, the units shall be provided such as-

1           sistance for a term of not less than 15  
2           years and, if such assistance is tenant-  
3           based, the units shall be provided such as-  
4           sistance for a term of not less than 5  
5           years;

6           “(vii) project-based assistance under  
7           any other Federal program, which has a  
8           term of not less than 15 years, including  
9           housing assisted by a tax credit under sec-  
10          tion 42 of the Internal Revenue Code;

11          “(viii) another method approved by  
12          the Secretary; or

13          “(ix) any combination of such meth-  
14          ods;

15          “(B) in the case of an application propos-  
16          ing demolition or disposition of 200 or more  
17          units, shall provide that—

18                  “(i) not less than 50 percent of such  
19                  additional dwelling units shall be provided  
20                  through the acquisition or development of  
21                  additional dwelling units or through  
22                  project-based assistance; and

23                  “(ii) not more than 50 percent of such  
24                  additional dwelling units shall be provided  
25                  through tenant-based assistance under sec-

1           tion 8 having a term of not less than 5  
2           years;

3           “(C) if providing for the use of tenant-  
4           based assistance under section 8 or otherwise,  
5           may be approved by the Secretary only if—

6                   “(i) the Secretary finds that—

7                           “(I) the supply of private rental  
8                           housing available to families who  
9                           would receive such assistance under  
10                           the plan is sufficient for the total  
11                           number of units that will be available  
12                           for tenant-based assistance under sec-  
13                           tion 8 or otherwise in the programs of  
14                           the public housing agency after imple-  
15                           mentation of the plan; and

16                           “(II) on the basis of experience  
17                           with tenant-based assistance program  
18                           in the jurisdiction of the public hous-  
19                           ing agency, there is a reasonable ex-  
20                           pectation that the families who receive  
21                           such assistance will be housed in ac-  
22                           cordance with program requirements;  
23                           and

24                           “(ii) the finding under clause (i) is  
25                           based on factors that the Secretary shall

1 determine, which shall include the rental  
2 vacancy rate in the market area, the avail-  
3 ability of housing of appropriate quality,  
4 size, and price in the market area, the suc-  
5 cess rate of families receiving such assist-  
6 ance from the public housing agency in  
7 leasing a unit under tenant-based assist-  
8 ance programs, and the overall administra-  
9 tive ability of the agency in administering  
10 such programs;

11 “(D) may provide that all or part of such  
12 additional dwelling units may be located outside  
13 the jurisdiction of the public housing agency (in  
14 this subparagraph referred to as the ‘original  
15 agency’) if—

16 “(i) the location is in the same hous-  
17 ing market area as the original agency, as  
18 determined by the Secretary; and

19 “(ii) the plan contains an agreement  
20 between the original agency and the public  
21 housing agency in the alternate location or  
22 other public or private entity that will be  
23 responsible for providing the additional  
24 units in the alternate location that such al-

1           ternate agency or entity will, with respect  
2           to the dwelling units involved—

3                   “(I) provide the dwelling units in  
4                   accordance with subparagraph (A);

5                   “(II) complete the plan on sched-  
6                   ule in accordance with subparagraph  
7                   (E);

8                   “(III) meet the requirements of  
9                   subparagraph (F) of this paragraph  
10                  and the maximum rent provisions of  
11                  subparagraph (G); and

12                  “(IV) not impose a local resi-  
13                  dency preference on any resident of  
14                  the jurisdiction of the original agency  
15                  for purposes of admission to any such  
16                  units;

17                  “(E) includes a schedule for completing  
18                  the plan within a period consistent with the  
19                  number of dwelling units subject to the pro-  
20                  posed demolition or disposition and replacement  
21                  plan, which—

22                          “(i) shall not exceed 6 years, except  
23                          that the Secretary may extend the schedule  
24                          to not more than 10 years if the Secretary  
25                          determines that good cause exists to ex-

1           tend the implementation of the replace-  
2           ment plan under this subsection; and

3           “(ii) the demolition or disposition  
4           under the plan can occur in phases nec-  
5           essary to provide for relocation of tenants  
6           under paragraph (2);

7           “(F) includes a method of ensuring that  
8           the same number of individuals and families  
9           will be provided housing;

10          “(G) provides for the payment of the relo-  
11          cation expenses of each tenant to be displaced  
12          and ensures that the rent paid by the tenant  
13          following relocation will not exceed the amount  
14          permitted under this Act;

15          “(H) prevents the taking of any action to  
16          demolish or dispose of any unit until the tenant  
17          of the unit is relocated to decent, safe, sanitary,  
18          and affordable housing; and

19          “(I) permits the Secretary to intervene and  
20          take any actions necessary to complete the plan  
21          if the public housing agency fails, without good  
22          cause, to carry out its obligations under the  
23          plan.

24          “(c) LIMITATION ON DEMOLITION AND EXEMP-  
25          TION.—

1           “(1) MAXIMUM PERCENTAGE.—Notwithstand-  
2           ing subsection (b)(3), in any 5-year period a public  
3           housing agency may demolish not more than the  
4           lesser of 5 dwelling units or 5 percent of the total  
5           dwelling units owned and operated by the public  
6           housing agency, without providing an additional  
7           dwelling unit for each such public housing dwelling  
8           unit to be demolished, but only if the space occupied  
9           by the demolished unit is used for meeting the serv-  
10          ice or other needs of public housing tenants or the  
11          demolished unit was beyond repair.

12           “(2) SITE AND NEIGHBORHOOD STANDARDS  
13          EXEMPTION.—Notwithstanding any other provision  
14          of law, a replacement plan under subsection (b)(3)  
15          may provide for demolition of public housing units  
16          and replacement of such units on site or in the same  
17          neighborhood if the number of replacement units  
18          provided in the same neighborhood is significantly  
19          fewer than the number of units demolished.

20           “(d) TREATMENT OF REPLACEMENT UNITS.—With  
21          respect to any dwelling units developed, acquired, or leased  
22          by a public housing agency pursuant to a replacement plan  
23          under subsection (b)(3)—

24           “(1) assistance may be provided under section  
25          9 for such units; and

1           “(2) such units shall be available for occupancy,  
2           operated and managed in the manner required for  
3           public housing, and shall be subject to the other re-  
4           quirements applicable to public housing dwelling  
5           units.

6           “(e) APPROVAL OF APPLICATIONS.—

7           “(1) IN GENERAL.—The Secretary shall notify  
8           a public housing agency submitting an application  
9           under this section for demolition or disposition and  
10          replacement of a public housing project or portion of  
11          a project of the approval or disapproval of the appli-  
12          cation not later than 60 days after receiving the ap-  
13          plication. If the Secretary does not notify the public  
14          housing agency as required under this paragraph or  
15          paragraph (2), the application shall be considered to  
16          have been approved.

17          “(2) DISAPPROVAL AND RESUBMISSION.—If the  
18          Secretary disapproves an application, the Secretary  
19          shall specify in the notice of disapproval the reasons  
20          for the disapproval and the agency may resubmit the  
21          application as amended or modified.

22          “(3) ANNUAL REPORT.—The Secretary shall  
23          submit a report to the Congress annually describing  
24          for the year the applications under this section ap-  
25          proved and disapproved, the number, general condi-

1       tion, and location of units demolished or disposed of,  
2       and the number, general condition, location and  
3       method of provision of units of replacement housing  
4       provided pursuant to this section.

5       “(f) ACTION WITHOUT APPROVAL OF APPLICA-  
6 TION.—

7               “(1) PROHIBITED ACTION.—A public housing  
8       agency shall not take any action to demolish or dis-  
9       pose of a public housing project or a portion of a  
10       public housing project without obtaining the ap-  
11       proval of the Secretary and satisfying the conditions  
12       specified in subsections (a) and (b).

13              “(2) ALLOWABLE ACTIONS.—If public housing  
14       dwelling units to be demolished or disposed of under  
15       this section are not decent, safe, and sanitary or  
16       public housing dwelling units to be rehabilitated  
17       under section 14 or 24 or the HOPE VI urban revi-  
18       talization demonstration program (pursuant to Pub-  
19       lic Law 102–389 (106 Stat. 1579)) cannot be main-  
20       tained cost-effectively in a decent, safe, and sanitary  
21       condition, the public housing agency may relocate  
22       tenants of such dwelling units into other dwelling  
23       units or cease leasing such units before the approval  
24       of an application under this section for demolition or

1 disposition of such units or before implementing the  
2 plan for modernization of such units.

3 “(g) ASSISTANCE FOR REPLACEMENT HOUSING.—

4 The Secretary may provide assistance under this sub-  
5 section for—

6 “(1) providing replacement public housing units  
7 pursuant to subsection (b)(3)(A) for units demol-  
8 ished or disposed of pursuant to this section; and

9 “(2) providing assistance under section 8 for  
10 replacement housing pursuant to subsection  
11 (b)(3)(A) for units demolished or disposed of pursu-  
12 ant to this section.

13 “(h) INAPPLICABILITY TO PUBLIC HOUSING HOME-  
14 OWNERSHIP PROGRAM.—The provisions of this section  
15 shall not apply to the disposition of a public housing  
16 project in accordance with an approved homeownership  
17 program under this Act.

18 “(i) EXCEPTIONS TO REPLACEMENT HOUSING RE-  
19 QUIREMENT.—

20 “(1) WAIVER.—The Secretary shall waive the  
21 applicability of the provisions of subsection (b)(3)  
22 and (c)(1) with respect to an application under this  
23 section by a public housing agency for the demolition  
24 or disposition of public housing dwelling units if—

1           “(A) the Secretary determines, based on  
2           the number of families on the waiting list for  
3           public housing dwelling units of the public  
4           housing agency, vacancy rates, the comprehen-  
5           sive housing affordability strategy (if applica-  
6           ble), and other available information relating to  
7           low-income housing needs within the jurisdic-  
8           tion of the agency, that no need exists for addi-  
9           tional low-income housing in the jurisdiction of  
10          the agency; or

11          “(B)(i) the Secretary determines, based on  
12          such factors as the vacancy rate for public  
13          housing dwelling units of the agency, the num-  
14          ber of families on the waiting list for public  
15          housing dwelling units of the agency, the avail-  
16          ability of funding under section 14, and the as-  
17          sessment of the management performance of  
18          the agency under section 6(j), that the need for  
19          additional low-income housing in the community  
20          can be met by the agency through the rehabili-  
21          tation of vacant public housing dwelling units in  
22          accordance with section 14; and

23          “(ii) the application under subsection (a)  
24          includes a commitment by the public housing  
25          agency to rehabilitate the requisite units within

1 a period consistent with the extent of the pro-  
2 posed demolition or disposition, which period  
3 shall not exceed 6 years, except that the Sec-  
4 retary may, upon a determination of good  
5 cause, approve a commitment for rehabilitation  
6 during a period not exceeding 10 years.

7 “(2) WAIVER AND ALTERNATIVE REPLACEMENT  
8 HOUSING.—Notwithstanding any other provision of  
9 this section, the Secretary shall waive the applicabil-  
10 ity of the provisions of subsection (b)(3) with respect  
11 to an application under this section by a public  
12 housing agency for the demolition or disposition of  
13 public housing dwelling units if—

14 “(A) the Secretary determines that the  
15 agency cannot meet some or all of the require-  
16 ments under subsection (b)(3) to provide re-  
17 placement housing with project-based assistance  
18 because of—

19 “(i) the high cost of acquiring real es-  
20 tate for development or rehabilitation for  
21 low-income housing in areas that are not  
22 racially or economically impacted or are  
23 not impacted by adverse environmental  
24 conditions; or

1                   “(ii) other factors determined by the  
2                   Secretary; and

3                   “(B) the agency applies for and the Sec-  
4                   retary approves the use of tenant-based assist-  
5                   ance under section 8 having a term of not less  
6                   than 5 years for any portion of the replacement  
7                   housing required under subsection (b)(3) that  
8                   the Secretary determines under subparagraph  
9                   (A) cannot be provided through project-based  
10                  assistance.

11                  “(3) REQUEST FOR WAIVER.—To be eligible for  
12                  a waiver under paragraph (1) or (2), a public hous-  
13                  ing agency shall submit to the Secretary a request  
14                  for a waiver under this subsection that includes—

15                         “(A) a comprehensive plan for demolition,  
16                         disposition, and replacement that describes ad-  
17                         ditional dwelling units to be made available by  
18                         the public housing agency;

19                         “(B) an identification of the dwelling units  
20                         for which the waiver is requested; and

21                         “(C) an assessment of the need for replac-  
22                         ing such dwelling units including the unit size,  
23                         age, general condition, and length of time such  
24                         units have been vacant, the condition of the  
25                         neighborhood in which the dwelling units are lo-

1 cated, and the availability of dwelling units af-  
2 fordable to low-income families within the juris-  
3 diction in which the dwelling units are located,  
4 during the implementation of the replacement  
5 plan.

6 “(4) SUBMISSION TO SECRETARY.—A request  
7 for a waiver under this subsection may be submitted  
8 at any time. The request shall be submitted to the  
9 Secretary by certified mail or any other equivalent  
10 means that provides notification to the public hous-  
11 ing agency making the request of the date of receipt  
12 by the Secretary.

13 “(5) NOTICE OF DISPOSITION OF REQUEST.—  
14 Except as provided in paragraph (6), the Secretary  
15 shall notify a public housing agency requesting a  
16 waiver under this section of the approval or dis-  
17 approval of the request not later than 45 days after  
18 receiving the request. If the Secretary does not no-  
19 tify the public housing agency as required under this  
20 paragraph or paragraph (6), the request for a waiver  
21 shall be considered to have been approved.

22 “(6) REQUEST FOR ADDITIONAL INFORMA-  
23 TION.—If the Secretary determines that more infor-  
24 mation is needed to make the determinations re-  
25 quired under paragraph (1) or (2) than has been

1 provided by the public housing agency, the Secretary  
2 shall notify the agency in writing not later than 30  
3 days after receiving the request for the waiver that  
4 additional information is necessary. Such notice  
5 shall describe specifically the additional information  
6 required for the determinations and establish a  
7 deadline for the submission of the information by  
8 the agency, which shall be determined based on the  
9 difficulty of obtaining the information requested. If  
10 the agency submits such additional information re-  
11 quested before the deadline established in the notice  
12 under this paragraph, the Secretary shall notify the  
13 agency requesting the waiver that the request is ap-  
14 proved or disapproved not later than 30 days after  
15 the submission of such additional information.

16 “(7) STATEMENT OF REASONS FOR DENYING  
17 OR APPROVING REQUEST.—The Secretary shall in-  
18 clude, in each notice under paragraph (5) or (6) of  
19 the denial or approval of a request for a waiver  
20 under this subsection, the specific reasons for deny-  
21 ing or approving the request. The denial of any re-  
22 quest for a waiver for public housing dwelling units  
23 shall not prejudice the consideration of any other

- 1 subsequent request for such a waiver for any of such
- 2 dwelling units.”.

○

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