

PART III—SUPPORTIVE HOUSING
SUPPORTIVE HOUSING FOR THE ELDERLY

EXCERPT FROM HOUSING ACT OF 1959

[Public Law 101-625; 104 Stat. 4297; 12 U.S.C. 1701q, 1701q-1]

**TITLE II—HOUSING FOR THE ELDERLY OR
HANDICAPPED**

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SEC. 202. [12 U.S.C. 1701q] SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) **PURPOSE.**—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of elderly persons; and

(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

(b) **GENERAL AUTHORITY.**—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure from the Resolution Trust Corporation, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

(c) **FORMS OF ASSISTANCE.**—

(1) **CAPITAL ADVANCES.**—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) **PROJECT RENTAL ASSISTANCE.**—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project

income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

(3) **TENANT RENT CONTRIBUTION.**—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

(d) **TERM OF COMMITMENT.**—

(1) **USE LIMITATIONS.**—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

(2) **CONTRACT TERMS.**—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(e) **APPLICATIONS.**—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed housing;
- (2) a description of the assistance the applicant seeks under this section;
- (3) a description of the resources that are expected to be made available in compliance with subsection (h);
- (4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

(5) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and

(6) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

(f) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for supportive housing for the elderly in the area to be served;¹ taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities

(3) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;

(6) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(g) PROVISIONS² OF SERVICES.—

(1) IN GENERAL.—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons who are not residents if the participation of such persons will not adversely affect the cost-effec-

¹So in law. Section 602(c) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this paragraph by “adding at the end” the matter that follows the semicolon. The matter was probably intended to be inserted before the semicolon at the end.

²So in law.

tiveness or operation of the program or add significantly to the need for assistance under this Act.

(2) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

(A) assess on an ongoing basis the service needs of residents;

(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2).

(3) SERVICE COORDINATORS.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to elderly persons;

(D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term “congregate space” shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(2) RTC PROPERTIES.—In the case of existing housing and related facilities to be acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act or from the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL HOUSING ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which—

(i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act;

(ii) substantially reduce the life-cycle cost of the housing;

(iii) reduce gross rent requirements; and

(iv) enhance tenant comfort and convenience.

(B) USES.—The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

(6) USE OF FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) TENANT SELECTION.—

(1) IN GENERAL.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income elderly persons; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) INFORMATION REGARDING HOUSING UNDER THIS SECTION.—The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

(3) OWNER DEPOSIT.—

(A) IN GENERAL.—The Secretary shall require an owner to deposit an amount not to exceed \$25,000 in a special escrow account to assure the owner's commitment to the housing.

(B) REDUCTION OF REQUIREMENT.—The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section. The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.

(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation

of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(5) LABOR.—

(A) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services;

or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of \$500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.

(7) COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(k) DEFINITIONS.—

(1) The term “elderly person” means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

(2) The term “frail elderly” means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(3) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

(4) The term “private nonprofit organization” means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(5) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(6) The term “Secretary” means the Secretary of Housing and Urban Development.

(7) The term “supportive housing for the elderly” means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

(8) The term “very low-income” has the same meaning as given the term “very low-income families” under section 3(b)(2) of the United States Housing Act of 1937.

(I) ALLOCATION OF FUNDS.—

(1) CAPITAL ADVANCES.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez National Affordable Housing Act¹ shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).

¹The date of enactment was November 28, 1990.

(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 percent¹ of the funds made available for assistance under this section shall be allocated by the Secretary on a national basis for nonmetropolitan areas.

CIVIL MONEY PENALTIES AGAINST SECTION 202 MORTGAGORS

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

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

(1) IN GENERAL.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage held pursuant to section 202, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on the mortgagor in accordance with the provisions of this section.

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

(c) VIOLATIONS OF REGULATORY AGREEMENT.—

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

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

(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating ex-

¹Section 602(g) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended "[s]ection 202(l)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(1)(3))...by striking '20 percent' and inserting '15 percent' ". The amendment was probably intended to be made to section 202(l)(3).

penses and necessary repairs, without the prior written approval of the Secretary.

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

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

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

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

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

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

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

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

(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys

of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

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

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

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

(d) AGENCY PROCEDURES.—

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

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

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

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

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

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

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

(e) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

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

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

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

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

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

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

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

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

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

under section 201(j) of the Housing and Community Development Amendments of 1978.

**TRANSITION AND REPEALED ELDERLY/HANDICAPPED
HOUSING PROVISIONS**

**EXCERPT FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE
HOUSING ACT**

[Public Law 101-625; 104 Stat. 4297; 12 U.S.C. 1701q note]

SEC. 801. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) is amended to read as follows:

“SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.

* * * * *

(b) CONFORMING AMENDMENT.—Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking “section 202 of the Housing Act of 1959”.

(c) [12 U.S.C. 1701q note] EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code. Regulations shall be issued for comment not later than 180 days after the date of enactment of this Act.

(d) [12 U.S.C. 1701q note] EXPEDITED FINANCING AND CONSTRUCTION.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) DEFINITION.—For purposes of this subsection, the term “supportive housing for the elderly” means housing—

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

(e) AUTHORIZATION FOR EXISTING PROGRAM.—Section 202(a)(4)(C) of the Housing Act of 1959 (12 U.S.C. 1701q(a)(4)(C)) is amended—

* * * * *

EXCERPT FROM HOUSING ACT OF 1959—PRIOR TO OCTOBER 1, 1991

[Public Law 86-372; 73 Stat. 667]

LOAN PROGRAM

SEC. 202.¹ (a)(1) The purpose of this section is to assist private nonprofit corporations, limited profit sponsors, consumer cooperatives or public bodies or agencies to provide housing and related facilities for elderly or handicapped families.

(2) In order to carry out the purpose of this section, the Secretary may make loans to any corporation (as defined in subsection (d)(2)), to any limited profit sponsor approved by the Secretary, to any consumer cooperatives, or to any public body or agency for the provisions of rental or cooperative housing related facilities for elderly or handicapped families, except that (A) no such loan shall be made unless the applicant shows that it is unable to secure the necessary funds from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this section (B) no such loan shall be made unless the Secretary finds that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (C) no such loan shall be made to a public body or agency unless it certifies that it is not receiving financial assistance from the United States exclusively pursuant to the United States Housing Act of 1937.

(3)(A) A loan under this section may be in an amount not exceeding that total development cost (as defined in subsection (d)(3)), as determined by the Secretary, except that in the case of other than a corporation, consumer cooperative, or public body or agency the amount of the loan shall not exceed 90 per centum of the development cost; shall be secured in such manner and be repaid within such period, not exceeding fifty years, as may be determined by him; and shall bear an interest rate which is not more than a rate determined by the Secretary taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum, plus an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program, except that such interest rate plus such allowance shall not exceed 9.25 per centum per annum.

(B) At the option of the borrower, a loan under this section may be made and may be processed for a conditional or firm commitment either (i) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 1-month period immediately prior to the month in which

¹ Section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, amended this section in its entirety. See the preceding page.

the request for a commitment is submitted; or (ii) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 3-month period immediately preceding the fiscal year in which the request for a commitment is submitted.

(4)(A) There is authorized to be appropriated for the purposes of this section not to exceed \$500,000,000, which amount shall be increased by \$150,000,000 on July 1, 1969. Amounts so appropriated, and the proceeds from notes or other obligations issued under subparagraph (B), shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(B)(i) To carry out the purposes of this section, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount not to exceed \$1,475,000,000, which amount shall be increased to \$2,387,500,000 on October 1, 1977, to \$3,300,000,000 on October 1, 1978, to \$3,827,500,000 on October 1, 1979, to \$4,777,500,000 on October 1, 1980, to \$5,752,500,000 on October 1, 1981, to \$6,400,000,000 on October 1, 1983, to such sum as may be approved in an appropriation Act on October 1, 1984, and to such sums as may¹ approved in appropriation Acts for fiscal years 1988 and 1989, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code; and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The Secretary may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section in an aggregate amount exceeding \$800,000,000 except as approved in appropriation Acts.

(ii) The receipt and disbursements of the fund shall not be included in the total of the Budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

(C) Amounts in the fund shall be available to the Secretary for the purpose of making loans under this section and for paying interest on obligations issued under subparagraph (B). The aggregate loans made under this section shall not exceed the limits on such lending authority established in appropriation Acts. For fiscal year

¹ So in law.

1991, not more than \$714,200,000 may be approved in appropriation Acts for such loans.

(5) To the maximum extent practicable, the Secretary shall use the services and facilities of the private mortgage industry in servicing mortgage loans made under this section.

(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

(B) will assist in providing housing for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public or private investment; or

(C) will assist in the substantial rehabilitation, in an economical manner, of structures having architectural, historical or cultural significance.

(7) The Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(8) In reviewing applications for loans under this section, the Secretary shall give a priority to any project that will provide housing designed to replace a structure that is owned by a public housing agency, contains not less than 100 dwelling units, is used for housing only elderly families, and is to be demolished. The requirements of this paragraph shall not apply after September 30, 1988.

(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c).

(b) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and the duties set forth in section 402 (except subsection (c)(2)) of the Housing Act of 1950.

(c)(1) Housing constructed with a loan made under this section shall not be used for transient or hotel purposes while such loan is outstanding

(2) As used in paragraph (1), the term “transient or hotel purposes” shall have such meaning as may be prescribed by the Secretary, but rental for any period less than thirty days shall in any event constitute use for such purposes. The provisions of subsection (f) through (j) of section 513 of the National Housing Act (as added by section 132 of the Housing Act of 1954) shall apply in the case of violations of paragraph (1) as though the housing described in such subsection were multifamily housing (as defined in section 513(e)(2) of the National Housing Act) with respect to which a mortgage is insured under such Act.

(3)(A) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors

and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more elderly or handicapped families shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (the Davis-Bacon Act).

(B) Subparagraph (A) shall not apply to any individual that—

- (i) performs services for which the individual volunteered;
- (ii) (I) does not receive compensation for such services; or (II) is paid expenses, reasonable benefits, or a nominal fee for such services; and
- (iii) is not otherwise employed at any time in the construction work.

(d) As used in this section—

(1) The term “housing” means structures suitable for dwelling use by elderly or handicapped families which are (A) new structures, or (B) provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for proposed dwelling use by such families.

(2) The term “corporation” means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such project is located, and (ii) which is responsible for the operation of the housing project assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(3) The term “development cost” means cost of construction of housing and of other related facilities, the cost of movables necessary to the basic operation of the project, as determined by the Secretary, and of the land on which it is located, including necessary site improvement, which cost shall be determined without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 231 of the National Housing Act. In the case of housing to meet the needs of handicapped (primarily nonelderly) persons, such term also means the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located. The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvements, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.

(4) The term “elderly or handicapped families” means families which consist of two or more persons and the head of which (or his spouse) is sixty-two years of age or over or is handicapped, and such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped

if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered handicapped if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)). The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing constructed with assistance under this section. Notwithstanding the preceding provisions of this paragraph, the term "elderly or handicapped families" includes two or more elderly or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to their care or well-being, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the family at the time of his or her death.

(5) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

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

(7) The term "construction" means erection of new structures or rehabilitation, alteration, conversion, or improvement of existing structures.

(8) The term "related facilities" means (A) new structures suitable for use by elderly or handicapped families residing in the project or in the area as cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities, and (B) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

(9) The term "housing for handicapped families" means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

(10) The term "nonelderly handicapped families" means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.

(e) Nothing in this section or in regulations promulgated under this section shall prevent a corporation or consumer cooperative from obtaining a loan under this section for the provision of housing and related facilities for elderly or handicapped families, notwithstanding the fact that such corporation or cooperative has theretofore obtained a commitment from the Federal Housing Administration for mortgage insurance under section 231 of the National Housing Act with respect to the housing involved, if (1) such corporation or cooperative is otherwise eligible for such loan under this section, (2) such commitment was obtained prior to the date of enactment

of the Housing Act of 1961 and (3) the Secretary determines that the financing of such housing through a loan under this section rather than through mortgage insurance under such section 231 is necessary or desirable in order to avoid hardship for the elderly or handicapped families who are the prospective tenants of such housing.

(f)(1) In carrying out the provisions of this section, the Secretary shall seek to assure, pursuant to applicable regulations, that housing and related facilities assisted under this section will be in appropriate support of, and supported by, applicable State and local plans which respond to Federal program requirements by providing an assured range of necessary services for individuals occupying such housing (which services may include, among others, health (including adult day health services), continuing education, welfare informational, recreational, homemaker, counseling, and referral services, transportation where necessary to facilitate access to social services, and services designed to encourage and assist recipients to use the services and facilities available to them), including plans approved by the Secretary of Health and Human Services pursuant to section 133 of the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963 or pursuant to title III of the Older Americans Act of 1965.

(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

(A) the category or categories of families such housing and facilities are intended to serve;

(B) the range of necessary services to be provided to the families occupying such housing;

(C) the manner in which such services will be provided to such families; and

(D) the extent of State and local funds available to assist in the provision of such services.

(g)(1) In carrying out the provisions of this section and section 8 of the United States Housing Act of 1937, the Secretary shall issue and implement regulations, as soon as practicable after the date of enactment of Housing and Community Development Act of 1977, which shall provide that the processing of any application for a loan for a project under this section and the processing of any application for assistance under such section 8 with respect to housing units in the same such project shall be coordinated in an economical and efficient manner. At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the United States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project. In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months.

(2) In determining the amount of assistance to be provided for a project pursuant to such section 8, subject to the availability of appropriations for contract amendments for the purpose of this paragraph the Secretary may also consider (and annually adjust for) the costs of—

(A) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly, especially those who are frail, or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and subparagraph (B) of this subsection¹; and

(B) expenses for the provision of services for elderly, especially those who are frail, and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services,

except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided. This paragraph shall not apply in the case of a project assisted under the congregate housing services program.

(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1987, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan² under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

(2) The Secretary shall take such actions as may be necessary to ensure that—

(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance pay-

¹ So in law. Probably intended to refer to this paragraph.

² So in law.

ments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section. In adopting such standards, the Secretary shall ensure adequate participation by representatives of the disability community through the provisions available under the Federal Advisory Committee Act.

(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987,¹ may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

(4)(A)² The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, excluding the costs of the assured range of services under subsection (f), taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance

¹The date of enactment was February 5, 1988.

²See section 162(d) of the Housing and Community Development Act of 1987, Pub. L. 100-242, which is set forth, *post*, this part and provides for the termination of rental assistance payments under section 8 of the United States Housing Act of 1937 for projects for the handicapped.

with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.

(i)(1) Unless otherwise requested by the sponsor, a maximum of 25 per centum of the units in a project financed under this section may be efficiency units, subject to a determination by the Secretary that such units are appropriate for the elderly or handicapped population residing in the vicinity of such project or to be served by such project.

(2) The Secretary may require a sponsor of a housing project financed with a loan under this section to deposit an amount not to exceed \$10,000 in a special escrow account to assure the commitment and long-term management capabilities of such sponsor.

(3) In establishing per unit cost limitations for purposes of this section, the Secretary shall take into account design features necessary to meet the needs of elderly and handicapped residents, and such limitations shall reflect the cost of providing such features. The Secretary shall adjust the per unit cost limitations in effect on January 1, 1983, not less than once annually to reflect changes in the general level of construction costs.

(j)(1) The Secretary may not approve the prepayment of any loan made under this section, or transfer such loan, unless such prepayment or transfer is made as part of a transaction that will ensure that the project involved will continue to operate until the original maturity date of such loan in a manner that will provide rental housing for the elderly and handicapped on terms at least as advantageous to existing and future tenants as the terms required by the original loan agreement entered into under this section and any other loan agreements entered into under other provisions of law.

(2) The Secretary may not sell any mortgage held by the Secretary as security for a loan made under this section.

(k)(1) In the process of selecting projects for loans under this section, the Secretary shall assure the inclusion of special design features and congregate space if necessary to meet the special needs of elderly and handicapped residents.

(2) The Secretary shall encourage the provision of small and scattered site group homes and independent living facilities for non-elderly handicapped persons and families.

(3) In considering applications for assistance under section 202, the Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

(l) The basis for selection of a contractor to be employed in the development or construction of a project assisted under this section shall be determined by the project sponsor or borrower if the development cost of the project is less than \$2,000,000, if the project rentals will be less than 110 per centum of the fair market rent applicable to projects financed under this section, or if the sponsor of the

project is a labor organization. The Secretary shall not impose different requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower.

(m) Nothing in this section authorizes the Secretary to prohibit any sponsor from voluntarily providing funds from other sources for amenities and other features of appropriate design and construction suitable for inclusion in such project if the cost of such amenities is (1) not financed with the loan, and (2) not taken into account in determining the amount of Federal subsidy or of the rent contribution of tenants.

(n) The Secretary shall notify the project sponsor not less than 30 days prior to canceling any loan authority provided under this section. During the 30-day period following the receipt of a notice under paragraph (1), a sponsor may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(p)¹ The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

¹ So in law. There is no subsection (o).

SECTION 8 PAYMENTS FOR SECTION 202 PROJECTS

**EXCERPT FROM SECTION 210 OF HOUSING AND COMMUNITY
DEVELOPMENT ACT OF 1974**

[Public Law 93-383; 88 Stat. 671; 12 U.S.C. 1701q note]

* * * * *

(g)(1) [12 U.S.C. 1701q note] In determining the feasibility and marketability of a project under section 202 of the Housing Act of 1959, the Secretary shall consider the availability of monthly assistance payments pursuant to section 8 of the United States Housing Act of 1937 with respect to such a project.

(2) The Secretary shall insure that with the original approval of a project authorized pursuant to section 202 of the Housing Act of 1959, and thereafter at each annual revision of the assistance contract under section 8 of the United States Housing Act of 1937 with respect to such units in such project, the project will serve both low- and moderate-income families in a mix which he determines to be appropriate for the area and for viable operation of the project; except that the Secretary shall not permit maintenance or vacancies to await tenants of one income level where tenants of another income level are available.

**EXCERPT FROM SECTION 162 OF HOUSING AND COMMUNITY
DEVELOPMENT ACT OF 1987**

[Public Law 100-242; 101 Stat. 1859; 12 U.S.C. 1701q note]

* * * * *

(d) [12 U.S.C. 1701q note] TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

**SUPPORTIVE HOUSING FOR PERSONS WITH
DISABILITIES**

**EXCERPT FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE
HOUSING ACT**

[Public Law 101-625; 104 Stat. 4324; 42 U.S.C. 8013]

**TITLE VIII—HOUSING FOR PERSONS WITH
SPECIAL NEEDS**

* * * * *

**Subtitle B—Supportive Housing for Persons With
Disabilities**

**SEC. 811. [42 U.S.C. 8013] SUPPORTIVE HOUSING FOR PERSONS WITH
DISABILITIES.**

(a) **PURPOSE.**—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) (b)¹ **AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary is authorized—

(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4); and

(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

(A) capital advances in accordance with subsection (d)(1), and

(B) contracts for project rental assistance in accordance with subsection (d)(2);

assistance under this paragraph may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

¹ So in law.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities,¹ and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section² shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under subsection (b)(2)

¹So in law.

²Section 623(a)(3)(A) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this paragraph “by striking ‘this section’ and inserting ‘subsection (b)(2)’”. Because the amendment did not specify which occurrence of “this section” to strike, the amendment could not be executed. The amendment was probably intended to apply to the first place such phrase appears.

the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(4) **TENANT-BASED RENTAL ASSISTANCE.**—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted, and had approved, an allocation plan under section 7(f) of the United States Housing Act of 1937, and a public housing agency shall be eligible to apply under this section only for the purposes of providing such assistance. Such assistance shall be made available to eligible persons with disabilities and administered under the same rules that govern rental assistance made available under section 8 of the United States Housing Act of 1937. In determining the amount of assistance provided under subsection (b)(1) for a public housing agency, the Secretary shall consider the needs of the agency as described in the allocation plan.

(e) **TERM OF COMMITMENT.**—

(1) **USE LIMITATIONS.**—All units in housing assisted under subsection (b)(2) shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) **CONTRACT TERMS.**—The initial term of a contract entered into under subsection (d)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) **APPLICATIONS.**—Funds made available under subsection (b)(2) shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under subsection (b)(2) shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed housing;
- (2) a description of the assistance the applicant seeks under this section;
- (3) a supportive service plan that contains—
 - (A) a description of the needs of persons with disabilities that the housing is expected to serve;
 - (B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section¹, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by

¹Section 623(a)(6) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by "striking 'this section' and inserting 'subsection (b)(2)' ". Because the amendment did not specify which occurrence of "this section" to strike, the amendment could not be executed. The amendment was probably intended to apply to the first place such phrase appears.

publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) RTC PROPERTIES.—In the case of existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL PROJECT ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Afford-

able Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) USES.—The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) TENANT SELECTION.—(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and¹

(3) SITE CONTROL.—An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) OWNER DEPOSIT.—The Secretary may require an owner to deposit an amount not to exceed \$10,000 in a special escrow account to assure the owner's commitment to the housing.

(5) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day

¹ So in law.

period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) LABOR STANDARDS.—

(A) IN GENERAL.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(k) DEFINITIONS.—As used in this section—

(1) The term “group home” means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) The term “person with disabilities” means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001–7). The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term “person with disabilities” includes two or more persons with disabilities living together, one or more such persons living

with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(3) The term “supportive housing for persons with disabilities” means housing that—

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(4) The term “independent living facility” means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe) in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(6) The term “private nonprofit organization” means any institution or foundation—

(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(D) which is approved by the Secretary as to financial responsibility.

(7) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

(9) The term “very low-income” has the same meaning as given the term “very low-income families” under section 3(b)(2) of the United States Housing Act of 1937.

(I) ALLOCATION OF FUNDS.—

(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection (b)¹ that is not less than the amount made available in appropriation Acts for such assistance in the preceding year, and the remainder shall be available for tenant-based assistance under subsection (n).¹

¹ So in law. Probably intended to refer to subsection (b)(2).

¹ So in law. Probably intended to refer to subsection (b)(1).

(2) CAPITAL ADVANCES.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1)². Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(3) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).³

(m) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by this section⁴ shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment.

(2) EARLIER APPLICABILITY.—The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act⁵ but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(3) COORDINATION.—When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

²So in law. Probably intended to refer to subsection (d)(1).

³So in law. Probably intended to refer to subsection (d)(2).

⁴So in law.

⁵November 28, 1990.

**FUNDING FOR SUPPORTIVE HOUSING PROGRAMS FOR
ELDERLY AND DISABLED PERSONS**

**EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF
1992**

[Public Law 102-550; 106 Stat. 3802]

**SEC. 601. FUNDING FOR SUPPORTIVE HOUSING FOR THE ELDERLY
AND FOR PERSONS WITH DISABILITIES.**

(a) **AGGREGATE FUNDING.**—There are authorized to be appropriated for the purpose of providing assistance in accordance with section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act, \$1,309,853,000 for fiscal year 1993 and \$1,364,866,826 for fiscal year 1994.

(b) **ALLOCATION.**—Of any amounts made available for assistance under the sections referred to in subsection (a), 70 percent of such amount shall be used for assistance in accordance with section 202 of the Housing Act of 1959 and 30 percent of such amount shall be used for assistance in accordance with section 811 of the Cranston-Gonzalez National Affordable Housing Act.

* * * * *

REVISED CONGREGATE HOUSING SERVICES
EXCERPT FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE
HOUSING ACT

[Public Law 101-625; 104 Stat. 4304; 42 U.S.C. 8011]

SEC. 802. [42 U.S.C. 8011] REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs provid-

ing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) PURPOSES.—The purposes of this section are—

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and persons with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n)—

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) TERM OF CONTRACTS.—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general

local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) RESERVATION OF AMOUNTS.—For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents and nonresidents, as provided in subsection (e)), as provided in this section, that are coordinated on site.

(2) MEAL SERVICES.—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) FOOD STAMPS AND AGRICULTURAL COMMODITIES.—

In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(II) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) PREFERENCE FOR NUTRITION PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) RETROFIT AND RENOVATION.—Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term “congregate space” shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) SERVICE COORDINATOR.—Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as “service coordinator”) who may be responsible for—

(A) working with the professional assessment committee established under subsection (f)¹ on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d)¹ can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder

¹ Probably intended to refer to subsection (e).

services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues. The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) OTHER SERVICES.—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) DETERMINATION OF NEEDS.—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) FEES.—

(A) ELIGIBLE PROJECT RESIDENTS.—The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) FULL MEAL SERVICES.—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) LESS THAN FULL MEAL SERVICES.—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) OTHER RESIDENTS AND NONRESIDENTS.—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e). Such

fees shall be in an amount equal to the cost of providing the services.

(8) DIRECT AND INDIRECT PROVISION OF SERVICES.—Any State, Indian tribe, unit of general local government, or non-profit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) ELIGIBILITY FOR SERVICES.—

(1) ELIGIBLE PROJECT RESIDENTS.—Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) ECONOMIC NEED.—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) IDENTIFICATION.—

(A) IN GENERAL.—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) PROFESSIONAL ASSESSMENT COMMITTEE.—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) ELIGIBILITY OF OTHER RESIDENTS.—The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d).

(5) ELIGIBILITY OF NONRESIDENTS.—The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of

such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) with—

- (1) owners of eligible housing;
- (2) States that submit applications in behalf of owners of eligible housing; and
- (3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) APPLICATIONS.—The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

- (1) a description of the type of assistance the applicant is applying for;
- (2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;
- (3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;
- (4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the completion of activities assisted under subsection (d);
- (5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);
- (6) a certification¹ from the appropriate State or local agency (as determined by the Secretary) that—
 - (A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,
 - (B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and
 - (C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

¹ So in law.

(7) a description of any fees that would be established pursuant to subsection (d); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.—

(1) IN GENERAL.—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

(A) the extent to which the activities described in subsection (d)(3) will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n),¹ establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of con-

¹ Probably intended to refer to subsection (m).

gregate services programs in the entity assisted under this section.

(i) CONGREGATE SERVICES PROGRAM FUNDING.—

(1) COST DISTRIBUTION.—

(A) CONTRIBUTION REQUIREMENT.—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual receipts to the extent available to supplement funds for retrofit and supportive services under this section.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(7) shall provide 10 percent of the cost.

(B) EXCEPTIONS.—

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act,¹ the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 6-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 6-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.¹

(ii) To the extent that the limitations under subsection (d)(7) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50

¹ November 28, 1990.

percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.—If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) PROHIBITION OF SUBSTITUTION OF FUNDS.—The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) LIMITATION.—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) CONSULTATION.—The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) USE OF RESIDENTS IN PROVIDING SERVICES.—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of¹ local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) EFFECT OF SERVICES.—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section² shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) ADMINISTRATIVE COST LIMITATION.—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(k) DEFINITIONS.—For purposes of this section:

(1) The term “activity of daily living” means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term “case management” means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term “congregate housing” means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term “congregate services” means services described in subsection (d) of this section.

¹So in law.

²November 28, 1990.

(5) The term “congregate services program” means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term “eligible housing project” means—

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937¹;

(B) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the structure under section 8(b)(2) of the United States Housing Act,¹ as such section existed before October 1, 1983;

(C) housing assisted under section 202 of the Housing Act of 1959;

(D) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(F) housing assisted under section 516 of the Housing Act of 1949.

(7) The term “eligible resident” means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term “frail elderly” means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or

¹Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

²Probably intended to refer to the United States Housing Act of 1937.

established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) The term “instrumental activity of daily living” means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term “local nonprofit housing sponsor” includes public housing agencies (as such term is defined in section 3(b)(6))¹ of the United States Housing Act of 1937.

(12) The term “nonprofit”, as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term “elderly person” means a person who is at least 62 years of age.

(14) The term “person with disabilities” has the meaning given the term by section 811 of this Act.

(15) The term “professional assessment committee” means a committee established under subsection (e)(3)(B).

(16) The term “qualifying supportive services” means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term “Secretary concerned” means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(19) The term “temporarily disabled” means having an impairment that—

¹ So in law.

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term “unit of general local government”—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(1) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is provided for congregate services programs under this section, an annual report—

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 803 of this Act; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m), for the submission of data by recipients of assistance under this section to be used in the repeat¹ required by paragraph (1).

(m) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act,² jointly issue any regulations necessary to carry out this section.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section \$21,000,000 for fiscal year 1993, and \$21,882,000 for fiscal year 1994, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs

¹ So in law. Probably intended to be “report”.

² The date of enactment was November 28, 1990.

administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development: and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until expended.

(o) RESERVE FUND.—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(p) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

* * * * *

HOUSING FOR PERSONS WITH AIDS
EXCERPT FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE
HOUSING ACT

[Public Law 101-625; 104 Stat. 4375; 42 U.S.C. 12901 et seq.]

TITLE VIII—HOUSING FOR PERSONS WITH
SPECIAL NEEDS

* * * * *

Subtitle D—Housing Opportunities for Persons
With AIDS

SEC. 851. [42 U.S.C. 12901 note] SHORT TITLE.

This subtitle may be cited as the “AIDS Housing Opportunity Act”.

SEC. 852. [42 U.S.C. 12901] PURPOSE.

The purpose of this title¹ is to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome and families of such persons.

SEC. 853. [42 U.S.C. 12902] DEFINITIONS.

For purposes of this subtitle:

(1) The term “acquired immunodeficiency syndrome and related diseases” means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term “applicant” means a State, a unit of general local government, or a nonprofit organization eligible to receive assistance under this subtitle.

(3) The term “low-income individual” means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term “grantee” means a State or unit of general local government receiving grants from the Secretary under this subtitle.

¹ So in law. Probably intended to refer to this subtitle.

(5) The term “metropolitan statistical area” means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term “locality” means the geographical area within the jurisdiction of a local government.

(7) The term “recipient” means a grantee or other applicant receiving funds under this title.¹

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

(9) The term “State” means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

(10) The term “unit of general local government” has the same meaning as in 104 of this Act.

(11) The term “city” has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

(12) The term “eligible person” means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

(13) The term “nonprofit organization” means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws;

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

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

(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

(14) The term “project sponsor” means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.

SEC. 854. [42 U.S.C. 12903] GENERAL AUTHORITY.

(a) **GRANTS AUTHORIZED.**—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 863, make grants to States, units of general local government, and nonprofit organizations.

(b) **IMPLEMENTATION OF ELIGIBLE ACTIVITIES.**—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.

(c) **ALLOCATION OF RESOURCES.**—

¹ So in law. Probably intended to refer to this subtitle.

(1) **FORMULA ALLOCATION.**—The Secretary shall allocate 90 percent of the amounts approved in appropriation Acts under section 863 among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 105 of this Act. Such amounts shall be allocated as follows:

(A) 75 percent among—

(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and

(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in clause (i); and

(B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.

A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.

(2) **MINIMUM GRANT.**—Subject only to the availability of amounts pursuant to appropriations Acts under section 863, for each fiscal year each eligible grantee under paragraph (1) shall receive funding according to its proportionate share of the total, except that each entity shall receive a minimum allocation of \$200,000 from subparagraphs (A) and (B) of paragraph (1) combined, and any increase this entails from the formula amount will be deducted from all other allocations exceeding \$200,000 on a pro rata basis. If allocation under subparagraph (A) of paragraph (1) would allocate less than \$200,000 for any State, the allocation for such State shall be \$200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any eligible entity to less than \$200,000.

(3) **NONFORMULA ALLOCATION.**—

(A) **IN GENERAL.**—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.

(B) SELECTION.—In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of eligible persons in the community; (iii) extent of local planning and coordination of housing programs for eligible persons; and (iv) the likelihood of the continuation of State and local efforts.

(C) NATIONAL SIGNIFICANCE PROJECTS.—For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for eligible persons; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) APPLICATIONS.—Funds made available under this section shall be allocated among applications submitted by applicants and approved by the Secretary. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed activities;
- (2) a description of the size and characteristics of the population that would be served by the proposed activities;
- (3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;
- (4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this subtitle;
- (5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and
- (6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) ADDITIONAL REQUIREMENT FOR METROPOLITAN AREAS.—In addition to the other requirements of this section, to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEEES.—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such

assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.

SEC. 855. [42 U.S.C. 12904] ELIGIBLE ACTIVITIES.

Grants allocated under this subtitle shall be available only for approved activities to carry out strategies designed to prevent homelessness among eligible persons. Approved activities shall include activities that—

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 857;

(2) facilitate the development and operation of shelter and services for such persons under section 858;

(3) provide rental assistance to such persons under section 859;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 860;

(5) facilitate the development of community residences for eligible persons under section 861;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities, except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3).

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

SEC. 856. [42 U.S.C. 12905] RESPONSIBILITIES OF GRANTEEES.

(a) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—Amounts received from grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(b) **CAPABILITY.**—The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this subtitle.

(c) **COOPERATION.**—The recipient shall agree to cooperate and coordinate in providing assistance under this subtitle with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for eligible persons and other public and private organizations and agencies providing services for such eligible persons.

(d) **PROHIBITION OF FEES.**—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle.

(e) CONFIDENTIALITY.—The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this subtitle and any other information regarding individuals receiving such assistance.

(f) FINANCIAL RECORDS.—The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this subtitle.

(g) ADMINISTRATIVE EXPENSES.—

(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title¹ may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.

SEC. 857. [42 U.S.C. 12906] GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES.

Grants under this section may only be used for the following activities:

(1) HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist eligible persons to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for eligible persons.

SEC. 858. [42 U.S.C. 12907] AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES.

(a) USE OF GRANTS.—Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to eligible persons who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

(1) SHORT-TERM SUPPORTED HOUSING.—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

(2) SHORT-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) SUPPORTIVE SERVICES.—Providing supportive services, to eligible persons assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling,

¹ So in law. Probably intended to refer to this subtitle.

day care, and nutritional services (except that health services under this paragraph may only be provided to eligible persons with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).

(b) PROGRAM REQUIREMENTS.—

(1) MINIMUM USE PERIOD FOR STRUCTURES.—

(A) IN GENERAL.—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for eligible persons—

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) WAIVER.—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.—

(A) RESIDENCY.—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) WAIVER.—The Secretary may, as the Secretary determines appropriate, waive the limitation under subpara-

graph (A) for any program or short-term supported housing facility.

(3) TERM OF ASSISTANCE.—

(A) SUPPORTED HOUSING ASSISTANCE.—A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) HOUSING PAYMENTS ASSISTANCE.—A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.

(4) PLACEMENT.—A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) PRESUMPTION FOR INDEPENDENT LIVING.—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) CASE MANAGEMENT SERVICES.—A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

SEC. 859. [42 U.S.C. 12908] RENTAL ASSISTANCE.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Grants under this section may be used only for assistance to provide rental assistance for low-income eligible persons. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 8 of the United States Housing Act of 1937. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) SHARED HOUSING ARRANGEMENTS.—Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to non-elderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards

issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(b) LIMITATIONS.—A recipient under this section shall comply with the following requirements:

(1) SERVICES.—The recipient shall provide for qualified service providers in the area to provide appropriate services to the eligible persons assisted under this section.

(2) INTENSIVE ASSISTANCE.—For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).¹

SEC. 860. [42 U.S.C. 12909 SINGLE ROOM OCCUPANCY DWELLINGS.]

(a) USE OF GRANTS.—Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 8(n) of the United States Housing Act of 1937.

(b) LIMITATION.—Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) SERVICES.—Appropriate services provided by qualified service providers in the area.

(2) INTENSIVE ASSISTANCE.—For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.]

SEC. 861. [42 U.S.C. 12910] GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for eligible persons.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit residence designed for eligible persons for the following purposes:

¹ So in law. Probably intended to refer to section 856(g)(2).

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among eligible persons by increasing available suitable housing resources.

(iv) To integrate eligible persons into local communities and provide services to maintain the abilities of such eligible persons to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low-income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection for tenant-based assistance.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) USE OF GRANTS.—Any amounts received from a grant under this section may be used only as follows:

(1) COMMUNITY RESIDENCES.—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) **PHYSICAL IMPROVEMENTS.**—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) **OPERATING COSTS.**—Operating costs for a community residence.

(C) **TECHNICAL ASSISTANCE.**—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses, and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle.

(D) **IN-HOUSE SERVICES.**—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) **SERVICES.**—For providing services under subsection (b)(2) to any individuals assisted under this subtitle.

(3) **ADMINISTRATIVE EXPENSES.**—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).

(d) **LIMITATIONS ON USE OF GRANTS.**—

(1) **COMMUNITY RESIDENCES.**—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) **SERVICE AGREEMENT.**—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to eligible persons assisted by the community residence.

(B) **FUNDING AND CAPABILITY.**—That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases¹.

(C) **ZONING AND BUILDING CODES.**—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) **INTENSIVE ASSISTANCE.**—That, for any individual with acquired immunodeficiency syndrome or related diseases who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction

¹Section 606(j)(11)(E)(ii) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by striking “individuals with acquired immunodeficiency syndrome or related diseases” each place it appears and inserting “eligible persons”. Because the matter to be struck does not appear in this subsection, the amendment could not be executed.

will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) SERVICES.—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases¹.

SEC. 862. [42 U.S.C. 12911] REPORT.

Any organization or agency that receives a grant under this subtitle shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this subtitle, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

SEC. 863. [42 U.S.C. 12912] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle \$150,000,000 for fiscal year 1993 and \$156,300,000 for fiscal year 1994.

¹ See footnote 1 on the preceding page.

PET OWNERSHIP

EXCERPT FROM HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

[Public Law 98-181; 97 Stat. 1195; 12 U.S.C. 1701r-1]

PET OWNERSHIP IN ASSISTED RENTAL HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 227. [12 U.S.C. 1701r-1] (a) No owner or manager of any federally assisted rental housing for the elderly or handicapped may—

(1) as a condition of tenancy or otherwise, prohibit or prevent any tenant in such housing from owning common household pets or having common household pets living in the dwelling accommodations of such tenant in such housing; or

(2) restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of such pets by, or the presence of such pets in the dwelling accommodations of, such person.

(b)(1) Not later than the expiration of the twelve-month period following the date of the enactment of this Act,¹ the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each issue such regulations as may be necessary to ensure (A) compliance with the provisions of subsection (a) with respect to any program of assistance referred to in subsection (d) that is administered by such Secretary; and (B) attaining the goal of providing decent, safe, and sanitary housing for the elderly or handicapped.

(2) Such regulations shall establish guidelines under which the owner or manager of any federally assisted rental housing for the elderly or handicapped (A) may prescribe reasonable rules for the keeping of pets by tenants in such housing; and (B) shall consult with the tenants of such housing in prescribing such rules. Such rules may consider factors such as density of tenants, pet size, types or pets, potential financial obligations of tenants, and standards of pet care.

(c) Nothing in this section may be construed to prohibit any owner or manager of federally assisted rental housing for the elderly or handicapped, or any local housing authority or other appropriate authority of the community where such housing is located, from requiring the removal from any such housing of any pet whose conduct or condition is duly determined to constitute a nuisance or a threat to the health or safety of the other occupants of such housing or of other persons in the community where such housing is located.

¹The date of enactment was November 30, 1983.

(d) For purposes of this section, the term “federally assisted rental housing for the elderly or handicapped” means any rental housing project that—

(1) is assisted under section 202 of the Housing Act of 1959; or

(2) is assisted under the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, and is designated for occupancy by elderly or handicapped families, as such term is defined in section 202(d)(4) of the Housing Act of 1959.¹

¹For exemption of Indian housing, see section 201(c) of the United States Housing Act of 1937, which is set forth in part II of this compilation.