

## **PART V—HOMEOWNERSHIP ASSISTANCE**

### **NATIONAL HOMEOWNERSHIP TRUST ACT**

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

[Public Law 101–625; 104 Stat. 4129; 42 U.S.C. 12851 et seq.]

### **TITLE III—HOMEOWNERSHIP**

#### **Subtitle A—National Homeownership Trust Demonstration**

**SEC. 301. [42 U.S.C. 12701 note] SHORT TITLE.**

This subtitle may be cited as the “National Homeownership Trust Act”.

**SEC. 302. [42 U.S.C. 12851] NATIONAL HOMEOWNERSHIP TRUST.**

(a) ESTABLISHMENT.—There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) POWERS OF TRUST.—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) TRAVEL AND PER DIEM.—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermit-

tently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) STAFF.—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

**SEC. 303. [42 U.S.C. 12852] ASSISTANCE FOR FIRST-TIME HOMEBUYERS.**

(a) IN GENERAL.—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) INTEREST RATE BUYDOWNS.—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).

(4) SECOND MORTGAGE ASSISTANCE.—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and<sup>1</sup>

(5) CAPITALIZATION OF REVOLVING LOAN FUNDS.—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.

(b) ELIGIBILITY REQUIREMENTS.—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) FIRST-TIME HOMEBUYER.—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A);

<sup>1</sup> So in law.

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A); or

(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

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

(2) **MAXIMUM INCOME OF HOMEBUYER.**—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act.

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) **CERTIFICATION.**—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) **PRINCIPAL RESIDENCE.**—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) **MAXIMUM MORTGAGE AMOUNT.**—The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(6) **MAXIMUM INTEREST RATE.**—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) **RESPONSIBLE MORTGAGEE.**—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that

is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) **MINIMUM DOWNPAYMENT.**—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) **TERMS OF ASSISTANCE.**—

(1) **SECURITY.**—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) **REPAYMENT UPON SALE.**—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) **REPAYMENT UPON INCREASED INCOME.**—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) **REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.**—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) **AVAILABLE ASSISTANCE.**—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) **ALLOCATION FORMULA.**—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

(e) **ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.**—

(1) **AUTHORITY.**—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143

of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

(2) **ELIGIBILITY.**—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;

(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

(3) **LIMITATION OF ASSISTANCE.**—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

(A) **INTEREST RATE BUYDOWNS.**—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

(B) **DOWNPAYMENT ASSISTANCE.**—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

(3)<sup>1</sup> **AVAILABILITY.**—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.

**SEC. 304. [42 U.S.C. 12853] NATIONAL HOMEOWNERSHIP TRUST FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) **ASSETS.**—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 308 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) **USE OF AMOUNTS.**—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) **INVESTMENT OF EXCESS AMOUNTS.**—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently

<sup>1</sup> So in law. Probably should be designated as paragraph (4).

required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) DEMONSTRATION PROGRAMS.—Using not more than \$20,000,000 of any amounts appropriated for the Fund under section 308 in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed \$4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed \$10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed \$1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

**SEC. 305. [42 U.S.C. 12854] DEFINITIONS.**

For purposes of this subtitle:

(1) BOARD OF DIRECTORS.—The term “Board of Directors” or “Board” means the Board of Directors of the National Homeownership Trust under section 302(b).

(2) DISPLACED HOMEMAKER.—The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FUND.—The term “Fund” means the National Homeownership Trust Fund established in section 304.

(4) SINGLE PARENT.—The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) STATE.—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.

(6) TRUST.—The term “Trust” means the National Homeownership Trust established in section 302.

**SEC. 306. [42 U.S.C. 12855] REGULATIONS.**

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

**SEC. 307. [42 U.S.C. 12856] REPORT.**

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 310, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

**SEC. 308. [42 U.S.C. 12857] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for assistance payments under this subtitle \$520,665,600 for fiscal year 1993 and \$542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.<sup>1</sup>

**SEC. 309. [42 U.S.C. 12858] TRANSITION.**

(a) AUTHORITY OF SECRETARY.—Upon the termination of the Trust as provided in section 310, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) APPLICABILITY OF TRUST PROVISIONS.—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) CERTIFICATION OF FUND TO TREASURY.—Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

**SEC. 310. [42 U.S.C. 12859] TERMINATION.**

The Trust shall terminate on September 30, 1994.

## Subtitle B—FHA and Secondary Mortgage Market

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<sup>1</sup> So in law. Probably intended to refer to section 309.

## HOPE HOMEOWNERSHIP PROGRAMS

### EXCERPTS FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

[Public Law 101-625; 104 Stat. 4148; 42 U.S.C. 12870 et seq.]

## TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

### SEC. 401. [42 U.S.C. 1437aaa note] SHORT TITLE.

This title may be cited as the “Homeownership and Opportunity Through HOPE Act”.

### SEC. 402. [42 U.S.C. 12870] AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title \$855,000,000 for fiscal year 1993, of which—

(1) \$285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to \$4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;<sup>1</sup>

(2) \$285,000,000 shall be available for activities authorized under subtitle B, of which up to \$3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;<sup>2</sup> and

(3) \$285,000,000 shall be available for activities under subtitle C, of which up to \$2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.<sup>3</sup>

Of the amounts appropriated pursuant to this subsection, up to \$40,000,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title \$883,641,000 for fiscal year 1994, of which—

(1) \$294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to \$4,500,000 of which may be made available for technical assist-

<sup>1</sup>Probably should refer to “such title”, i.e., title III of the United States Housing Act of 1937.

<sup>2</sup>Probably should refer to “such subtitle”, i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.

<sup>3</sup>Probably should refer to “such subtitle”, i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.



ance to potential applicants, applicants and recipients of assistance under this title;<sup>1</sup>

(2) \$294,547,000 shall be available for activities authorized under subtitle B, up to \$3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;<sup>2</sup> and

(3) \$294,547,000 shall be available for activities under subtitle C, up to \$2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.<sup>3</sup>

Of the amounts appropriated pursuant to this subsection, up to \$41,680,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

(c) TECHNICAL ASSISTANCE.—Technical assistance made available under title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.

### **Subtitle A—HOPE for Public and Indian Housing Homeownership**

#### **SEC. 411. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.**

The United States Housing Act of 1937 is amended by adding at the end the following new title:

### **“TITLE III<sup>4</sup>—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP**

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### **Subtitle B—HOPE for Homeownership of Multifamily Units**

#### **SEC. 421. [42 U.S.C. 12871] PROGRAM AUTHORITY.**

(a) IN GENERAL.—The Secretary is authorized to make—

<sup>1</sup>Probably should refer to “such title”, i.e., title III of the United States Housing Act of 1937.

<sup>2</sup>Probably should refer to “such subtitle”, i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.

<sup>3</sup>Probably should refer to “such subtitle”, i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

<sup>4</sup>Title III of the United States Housing Act of 1937, 42 U.S.C. 2437aaa et seq., contains the HOPE for public and Indian housing homeownership provisions and is set forth in part II of this compilation.

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) **AUTHORITY TO RESERVE HOUSING ASSISTANCE.**—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

**SEC. 422. [42 U.S.C. 12872] PLANNING GRANTS.**

(a) **GRANTS.**—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) **ELIGIBLE ACTIVITIES.**—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this subtitle.

(c) **APPLICATION.**—

(1) **FORM AND PROCEDURES.**—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>1</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

**SEC. 423. [42 U.S.C. 12873] IMPLEMENTATION GRANTS.**

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

<sup>1</sup>The date of enactment was November 28, 1990.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322 for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(11) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 324<sup>1</sup> and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);<sup>1</sup>

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State

<sup>1</sup> So in law. Probably intended to refer to section 424.

or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>1</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d)<sup>2</sup> SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e)<sup>3</sup> APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

**SEC. 424. [42 U.S.C. 12874] HOMEOWNERSHIP PROGRAM REQUIREMENTS.**

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (includ-

<sup>1</sup>The date of enactment was November 28, 1990.

<sup>2</sup>So in law. Probably should be designated as subsection (e).

<sup>3</sup>So in law. Probably should be designated as subsection (f).

ing principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) ACQUISITION AND REHABILITATION LIMITATION.—Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident

management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(g) PROTECTION OF NONPURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8<sup>1</sup> is available for use by each otherwise qualified tenant in that or another property.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

**SEC. 425. [42 U.S.C. 12875] OTHER PROGRAM REQUIREMENTS.**

(a) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

<sup>1</sup> Probably intended to refer to section 8 of the United States Housing Act of 1937.



(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use

for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) **THIRD PARTY RIGHTS.**—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) **DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.**—Not more than an aggregate of \$250,000 from amounts made available under sections 422 and 423 may be used for economic development activities under sections 422(b)(6) and 423(b)(9)<sup>1</sup> for any project.

(g) **TIMELY HOMEOWNERSHIP.**—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) **RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.**—

(1) **IN GENERAL.**—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) **ACCESS BY THE SECRETARY.**—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) **ACCESS BY THE COMPTROLLER GENERAL.**—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any

<sup>1</sup> So in law. Probably intended to refer to sections 422(b)(7) and 423(b)(10).

books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(i) **CERTAIN ENTITIES NOT ELIGIBLE.**—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

**SEC. 426. [42 U.S.C. 12876] DEFINITIONS.**

For purposes of this subtitle:

(1) The term “applicant” means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(G) A mutual housing association.

(2) The term “eligible family” means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term “eligible property” means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, or a State or local government or an agency or instrumentality thereof.

(4) The term “homeownership program” means a program for homeownership under this subtitle.

(5) The term “Indian housing authority” has the meaning given such term in section 3(b)(11)<sup>1</sup> of the United States Housing Act of 1937.

(6) The term “low-income family” has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term “recipient” means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term “resident council” means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

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

**SEC. 427. [42 U.S.C. 12877] EXEMPTION.**

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or

(2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

**SEC. 428. [42 U.S.C. 12878] LIMITATION ON SELECTION CRITERIA.**

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

**SEC. 429. AMENDMENT TO NATIONAL HOUSING ACT.**

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting after “Housing Act of 1961,” the following: \* \* \*

**SEC. 430. [42 U.S.C. 12879] IMPLEMENTATION.**

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations

<sup>1</sup>So in law. Section 501(b)(1)(D) of Public Law 104-330(110 Stat. 4042) strikes 3(b)(11) of the United States Housing Act of 1937.

based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

**SEC. 431. [42 U.S.C. 12880] REPORT.**

The Secretary shall no later than December 31, 1995, submit to the Congress a report setting forth—

- (1) the number, type and cost of eligible properties transferred pursuant to this subtitle;
- (2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;
- (3) the amount and type of financial assistance provided under and in conjunction with this subtitle;
- (4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and
- (5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

### **Subtitle C—HOPE for Homeownership of Single Family Homes**

**SEC. 441. [42 U.S.C. 12891] PROGRAM AUTHORITY.**

The Secretary is authorized to make—

- (1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and
- (2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

**SEC. 442. [42 U.S.C. 12892] PLANNING GRANTS.**

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

- (1) identifying eligible properties;
- (2) training and technical assistance of applicants related to the development of a specific homeownership program;
- (3) studies of the feasibility of specific homeownership programs;
- (4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;
- (5) preliminary architectural and engineering work;
- (6) homebuyer counseling and training;
- (7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;
- (8) development of security plans; and
- (9) preparation of an application for an implementation grant under this subtitle.

## (c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>1</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

<sup>1</sup>The date of enactment was November 28, 1990.

**SEC. 443. [42 U.S.C. 12893] IMPLEMENTATION GRANTS.**

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

- (1) Architectural and engineering work.
- (2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.
- (3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.
- (4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.
- (5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.
- (6) Counseling and training of homebuyers and homeowners under the homeownership program.
- (7) Relocation of eligible families who elect to move.
- (8) Any necessary temporary relocation of homebuyers during rehabilitation.
- (9) Legal fees.
- (10) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.
- (11) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) **MATCHING FUNDING.**—

(1) **IN GENERAL.**—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) **FORM.**—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 444 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 444(b);

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the



project is located (or, during the first 12 months after enactment of this Act,<sup>1</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) **APPROVAL.**—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

**SEC. 444. [42 U.S.C. 12894] HOMEOWNERSHIP PROGRAM REQUIREMENTS.**

(a) **IN GENERAL.**—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) **AFFORDABILITY.**—A homeownership program under this subtitle shall provide for the establishment of sales prices (includ-

<sup>1</sup>The date of enactment was November 28, 1990.

ing principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) **ELIGIBLE PROPERTY.**—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) **PLAN.**—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) **HOUSING QUALITY STANDARDS.**—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(f) **PREFERENCE FOR ACQUISITION OF VACANT UNITS.**—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.

**SEC. 445. [42 U.S.C. 12895] OTHER PROGRAM REQUIREMENTS.**

(a) **COST LIMITATIONS.**—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—

(1) **IN GENERAL.**—

(A) **TRANSFER PERMITTED.**—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) **RIGHT TO PURCHASE.**—Where a resident management corporation, resident council, or cooperative has ju-

jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeowner-

ship program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) **THIRD PARTY RIGHTS.**—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) **PROTECTION OF NONPURCHASING FAMILIES.**—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(h)<sup>1</sup> **RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.**—

(1) **IN GENERAL.**—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) **ACCESS BY THE SECRETARY.**—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) **ACCESS BY THE COMPTROLLER GENERAL.**—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

**SEC. 446. [42 U.S.C. 12896] DEFINITIONS.**

For purposes of this subtitle:

(1) The term “applicant” means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term “displaced homemaker” has the same meaning as in section 104.

<sup>1</sup> So in law. There are no subsections (f) and (g).

(3) The term “eligible family” means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term “eligible property” means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (excluding public or Indian housing under the United States Housing Act of 1937 and including properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term “first-time homebuyer” has the same meaning as in section 104.

(6) The term “homeownership program” means a program for homeownership under this subtitle.

(7) The term “Indian housing authority” has the meaning given such term in section 3(b)(11)<sup>1</sup> of the United States Housing Act of 1937.

(8) The term “low-income family” has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term “recipient” means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

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

(12) The term “single parent” means an individual who—  
(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

**SEC. 447. [42 U.S.C. 12897] LIMITATION ON SELECTION CRITERIA.**

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of

<sup>1</sup>So in law. Section 501(b)(1)(D) of Public Law 104-330(110 Stat. 4042) strikes 3(b)(11) of the United States Housing Act of 1937.

any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

**SEC. 448. [42 U.S.C. 12898] IMPLEMENTATION.**

Not later than the expiration of the 180-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

## SECTION 235 HOMEOWNERSHIP ASSISTANCE

### EXCERPT FROM NATIONAL HOUSING ACT

[Public Law 90-448; 82 Stat. 477; 12 U.S.C. 1715z]

#### HOMEOWNERSHIP FOR LOWER INCOME FAMILIES

SEC. 235.<sup>1</sup> [12 U.S.C. 1715z] (a)(1) For the purpose of assisting lower-income families in acquiring homeownership or in acquiring membership in a cooperative association operating a housing project, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners and cooperative members. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section or which mortgages are assisted under a State or local program providing assistance through loans, loan insurance or tax abatement. In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative project). Such assistance may include the acquisition of a condominium or a membership in a cooperative association.

(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a manufactured home consisting of two or more modules and a lot on which such manufactured home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. As-

<sup>1</sup> Section 401(d) of the Housing and Community Development Act of 1987, Pub. L. 100-242, provides as follows:

“(d) TERMINATION OF SECTION 235.—

“(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act shall terminate.

“(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

“(A) any mortgage insurance commitment issued; or

“(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989.”

But, section 125(d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, provides as follows:

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

sistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower income of a manufactured home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the manufactured home and the lot on which such manufactured home is or will be situated, but only if insurance under section 2 of this Act covering such loan, advance of credit, or obligation has been granted to such institution.

(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying 20 per centum of the manufactured homeowner's income; or

(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section.

(b) To qualify for assistance payments, the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

(1) the homeowner shall be a mortgagor under a mortgage which meets the requirements of and is insured under subsection (i) or (j)(4) of this section: *Provided*, That a mortgage meeting the requirements of subsection (i)(3)(A) of this section but insured under section 237 may qualify for assistance payments if such mortgage was executed by a mortgagor who is determined not to be an acceptable credit risk for mortgage insurance purposes (but otherwise eligible) under subsection (j)(4) of this section or under section 221(d)(2) or 234(c) and accepted as a reasonably satisfactory credit risk under section 237; or

(2) the cooperative association of which the family is a member shall operate (A) a housing project the construction or substantial rehabilitation of which has been financed with a mortgage insured under section 213 or section 221(d)(3) and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the family: *Pro-*



*vided*, That if any cooperative member who has received assistance payments transfers his membership and occupancy rights to another person who satisfies the eligibility requirements prescribed by the Secretary and undertakes the obligation to pay occupancy charges, the new cooperative member may qualify for assistance payments upon the filing of an application with respect to the dwelling unit involved to be occupied by him: *Provided further*, That assistance payments may be made with respect to a dwelling unit in an existing cooperative project which meets such standards as the Secretary may prescribe, if the family qualifies as a displaced family as defined in section 221(f), or a family which includes five or more minor persons, or a family occupying low-rent public housing: *Provided further*, That the amount of the mortgage attributable to the dwelling unit shall involve a principal obligation not in excess of \$40,000 (\$47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be \$47,500 and \$55,000 respectively, or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

(c)(1) Subject to the second sentence of this paragraph, the assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage: *Provided*, That assistance payments may be made on behalf of a homeowner who assumes a mortgage insured under subsection (i) or (j)(4) with respect to which assistance payments have been made on behalf of the previous owner, if the homeowner is approved by the Secretary as eligible for receiving such assistance: *Provided further*, That the Secretary is authorized to continue making such assistance payments where the mortgage has been assigned to the Secretary. Assistance payments pursuant to any new contract, other than a contract in connection with a refinancing under subsection (r), entered into after September 30, 1983, that utilizes authority approved in appropriation Acts for any fiscal year beginning after such date may not be made for more than a 10-year period. The payments shall be in an amount not exceeding the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum (4 per centum per annum in the case of a mortgage described in subsection (o)).

(2)(A)<sup>1</sup> Upon disposition by the homeowner of any property assisted pursuant to this section or where the homeowner rents such a property (or the owner's unit in the case of a two- to four-family property) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this section, other than any amount provided under subsection (e), or (ii) an amount equal to at least 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage amount as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(B) Subparagraph (A) does not apply to any property with respect to which there is assumption in accordance with paragraph (1) of this subsection or to any property which is subject to a mortgage, loan, or other advance of credit insured pursuant to subsection (q).

(3)(A) There hereby is established in the Treasury of the United States a fund, which, to the extent approved in appropriation Acts, may be used by the Secretary for purposes of carrying out subparagraph (B). There shall be deposited into such fund (i) any amount recaptured under paragraph (2); (ii) any authority to make assistance payments under subsection (a) that is committed for use in a contract but is unused because the mortgage, loan, or advance of credit involved is refinanced (except to the extent provided in subsection (r) for mortgages insured under such subsection) or because such assistance payments are terminated or suspended for other reasons before the original termination date of such contract; and (iii) any amount received under subparagraph (C).

(B) In the case of any homeowner whose assistance payments are terminated by reason of the 10-year limitation referred to in paragraph (1), and who is determined by the Secretary to be unable to assume the full payments due under the mortgage, loan, or advance of credit involved, the Secretary shall, to the extent of the availability of amounts in the fund established in subparagraph (A), contract to make, and make, continued assistance payments on behalf of such homeowner. Such continued assistance payments shall be made in an amount determined in accordance with the applicable provisions of paragraph (1) or subsection (a)(2)(B) and for such period as the Secretary determines to be appropriate.

(C) Any amounts in such fund determined by the Secretary to be in excess of the amounts currently required to carry out the pro-

<sup>1</sup>Sec. 206(b)(2) of the Housing and Community Development Act of 1980, Pub. L. 96-399, approved Oct. 8, 1980, provides that paragraph (c)(2) "does not apply to any assistance contract under section 235 of the National Housing Act entered into pursuant to a commitment issued within 6 months following the date of enactment of [the Housing and Community Development Act of 1980]".

visions of subparagraph (B) shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States. Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.

(d) Assistance payments to a mortgagee by the Secretary on behalf of a family holding membership in a cooperative association operating a housing project shall be made only during such time as the family is an occupant of such project and shall be in amounts computed on the basis of the formula set forth in subsection (c) applying the cooperative member's proportionate share of the obligations under the project mortgage to the items specified in the formula.

(e) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (a)(2)(B), (c), (d), (j)(7), or (r), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(f) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's (or cooperative member's) income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c).

(g) The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by \$125,000,000 on July 1, 1969, by \$150,000,000 on July 1, 1970, by \$200,000,000 on July 1, 1971, by such sums as may be approved in appropriation Acts after June 30, 1974, and prior to July 1, 1976, and by such sums as may be approved in an appropriation Act on or after October 1, 1983 (from the additional authority to enter into contracts made available on such date under the first sentence of section 5(c)(1) of the United States Housing Act of 1937). The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on or after October 1, 1983 (other than obligations in connection with mortgages insured under subsection (r)), may not exceed such sums of new budget authority as may be appropriated after the

date of enactment of this sentence.<sup>1</sup> The Secretary shall begin issuing new commitments and reservations to provide mortgage insurance and assistance payments under this section before the expiration of the 30-day period following the approval in any appropriation Act of budget authority for this section after the date of the enactment of this sentence.<sup>2</sup> Upon the expiration of one year following the date of enactment of the Housing and Community Development Act of 1974,<sup>3</sup> the Secretary shall not enter into new contracts for assistance payments under this section utilizing authority approved in appropriation Acts prior to July 1, 1974. The Secretary shall not enter into new contracts for assistance payments under this section (except under subsection (r)) after May 20, 1983, utilizing amounts approved in appropriation Acts before the date of the enactment of the Housing and Urban-Rural Recovery Act of 1983,<sup>4</sup> except (i) pursuant to a firm commitment issued on or before May 20, 1983, (ii) pursuant to other commitments issued by the Secretary prior to June 30, 1981, reserving funds for housing to be assisted under this section where such housing is included in a project pursuant to section 119 of the Housing and Community Development Act of 1974, or (iii) pursuant to other commitments issued on or before September 30, 1981, where housing under this section is to be developed on land which was municipally owned on September 30, 1981, and where a local government contributes at least \$1,000 per unit of funds obtained under title I of the Housing and Community Development Act of 1974 and at least \$2,000 per unit of additional funds to assist housing under this section. In no event may the Secretary enter into any new contract for assistance payments under this section (other than a contract in connection with a mortgage insured under subsection (r)) after September 30, 1989.

(2) Assistance payments under this section may be made only with respect to a family whose income at the time of initial occupancy does not exceed 95 per centum 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 95 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(3) Notwithstanding the provisions of subsections (b)(2) and (i)(3)(A) with respect to the prior construction of rehabilitation of a dwelling, or of the project in which there is a dwelling unit, for which assistance payments may be made, and notwithstanding the provisions of subsection (j)(1) authorizing the purchase of housing which is neither deteriorating nor substandard, not more than—

(A) 25 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made prior to July 1, 1969, and

<sup>1</sup> November 30, 1983.

<sup>2</sup> August 22, 1974.

<sup>3</sup> November 30, 1983.

<sup>4</sup> November 30, 1983.

(B) 30 per centum of the total additional amount of contracts for assistance payment authorized by appropriations Acts to be made on or after July 1, 1969, may be made with respect to existing dwellings, or dwelling units in existing projects. The preceding sentence shall not apply to contracts in connection with mortgages insured under subsection (r).

(4) At least 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1971, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation.

(i)(1) The Secretary is authorized, upon application by the mortgagee, to insure, a mortgage (including advances with respect to property construction or rehabilitation pursuant to a self-help program) executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgagee shall meet the requirements of section 221(d)(2) or 234(c), except as such requirements are modified by this subsection.

(3) A mortgage to be insured under this subsection shall—

(A) involve a single-family or a two-family dwelling which has been approved by the Secretary prior to the beginning of construction or substantial rehabilitation, or a three-family dwelling which is approved by the Secretary prior to the beginning of substantial rehabilitation, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction or substantial rehabilitation of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit has had no previous occupant other than the mortgagor: *Provided*, That the mortgage may involve an existing dwelling or family unit in an existing condominium project which meets such standards as the Secretary may prescribe: *Provided further*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project if assistance payments have been made on behalf of the previous owner of the dwelling or family unit with respect to a mortgage insured under subsection (j)(4): *Provided further*, That the mortgage may involve a dwelling unit in an existing project covered by a mortgage insured under section 236 or in an existing project receiving the benefits of financial assistance under section 101 of the Housing and Urban Development Act of 1965;

(B) where it is to cover a one-family unit in a condominium project, have a principal obligation not exceeding \$40,000 (\$47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more

persons the foregoing limits shall be \$47,500, and \$55,000, respectively;

(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$40,000 (\$47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be \$47,500 and \$55,000, respectively;

(D) involve, in the case of a two-family or three-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$60,000 (\$66,250 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require);

(E) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, as least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured); and

(F) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets.

(4) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(5) As a condition of insuring a mortgage on a two- to three-family dwelling, the Secretary shall require the mortgagor (A) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State or local housing assistance program and (B) to agree that during the term of the mortgage each of the rental units shall be occupied by, or available for occupancy by, persons and families whose incomes do not exceed 100 per centum of the area median income.

(j)(1) In addition to mortgages insured under the provisions of subsection (i), the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale) and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established; except that in a case not involving the rehabilitation of deteriorating or substandard housing the property purchased may consist of one or more such dwellings or units;

(B) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of any rehabilitation;

(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4)(A)<sup>1</sup> No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b).

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to

<sup>1</sup> Section 101(c)(4) of the Housing and Urban Development Act of 1968, Pub. L. 90-448, approved August 1, 1968, provides as follows:

"(4) The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act after the date of enactment of this section, may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act, but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act."

lower income purchases as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than \$200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms “single-family dwelling”, “single-family dwellings”, “individual dwelling”, and “individual dwellings” shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) For purposes of this subsection, the terms “single-family dwelling” and “single-family dwellings” (except for purposes of paragraph (5)) shall include a two- to three-family dwelling which has been approved by the Secretary.

(7) In addition to the assistance payments authorized under subsection (b), the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(8) A mortgage covering property which is not deteriorating or substandard may be insured under this subsection only if it is situated in an area in which mortgages may be insured under section 221(h).



(9) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(k) The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make assistance payments as approved in appropriation Acts under subsection (h)(1).

(l) In determining the income of any person for the purposes of this section, there shall be deducted an amount equal to \$300 for each minor person who is a member of the immediate family of such person and living with such family, and the earnings of any such minor persons shall not be included in the income of such person or his family.

(m) No mortgage (except a mortgage insured under subsection (r)) shall be insured under this section after September 30, 1989, except pursuant to a commitment to insure before that date.

(n) No mortgage may be insured under this section on a unit in a subdivision, after the effective date of enactment of this subsection, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary or to a mortgage insured under subsection (r).

(o) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 20 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to a dwelling in an urban neighborhood where the Secretary determines that a community sponsored program of concentrated redevelopment or revitalization is being undertaken and the Secretary determines that such action is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing.

(p) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.

(q)(1) Notwithstanding any other provision of this section, except subsection (n), if the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make

periodic assistance payments to the extent of not to exceed 75 per centum of the authority available pursuant to subsection (h)(1), on behalf of homeowners, including owners of manufactured homes, to mortgagees or other lenders holding mortgages, loans, or advances of credit which meet the requirements of this subsection. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages, loans, or advances of credit assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection. The authority to enter into contracts to provide assistance payments and to insure mortgages under this subsection shall terminate on September 30, 1989, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present, except pursuant to a commitment entered into prior to such date.

(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new manufactured home consisting of two or more modules and a lot on which the manufactured home is situated, where insurance under section 2 of this Act covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such manufactured home and lot has been granted to the lender making such loan, advance of credit, or purchase of an obligation; and

(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage, loan, or advance of credit. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

(4) The amount of the assistance payments in the case of a mortgage shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 per centum of the mortgagor's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance pre-

mium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 203(b), other than mortgages subject to section 3(a)(2) of Public Law 90-301, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9½ per centum per annum.

(5) Assistance payments on behalf of the owner of a manufactured home shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying a minimum of 25 per centum of the manufactured homeowner's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear an interest rate determined by the Secretary which shall not be less than 12 per centum per annum.

(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under paragraph (4) or (5), as the Secretary deems appropriate to reimburse the mortgagee or other lender for its reasonable and necessary expenses in handling the mortgage, loan, or advance of credit.

(7) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sale price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary.

(8) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

(9) The Secretary may, in addition to mortgages insured under subsection (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(10) To be eligible for insurance under this subsection, a mortgage shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and which has never been sold other than to the mortgagor;

(D) involve a principal residence the sales price of which does not exceed 82 per centum of the applicable maximum principal obligation of a mortgage which may be insured in the area pursuant to section 203(b)(2), determined without regard to the last sentence of such section;

(E) have maturity and amortization provisions satisfactory to the Secretary;

(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 203(b);

(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

(H) contain such other terms and conditions as the Secretary may prescribe.

(11) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources.

(12) A mortgage to be assisted under this subsection shall, where the Secretary deems it appropriate, provide for graduated payments pursuant to section 245.

(13) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production, and other factors he deems appropriate. Assistance provided under this subsection shall not be subject to section 213 of the Housing and Community Development Act of 1974.

(14) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner rents the property (or the owner's unit in the case of a two- to four-family residence) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount provided under paragraph (6), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase

price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(15) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The Secretary is authorized to take any actions to identify and communicate with any mortgagor of a mortgage insured under this section to implement the refinancing of such mortgages with insurance under this subsection. The Secretary may take such actions directly, or under contract. Notwithstanding the restriction of section 552a(b) of title 5 of the United States Code, upon the request of an approved mortgagee, the Secretary may disclose to such mortgagee the name and address of any mortgagor of a mortgage insured under this section that meets the criteria for refinancing, pursuant to paragraph (2)(F), and the unpaid principal balance and interest rate on such mortgage.

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

**ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY  
GRANTS**

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

[Public Law 102-550; 106 Stat. 3748; 42 U.S.C. 12898a]

**SEC. 186. [42 U.S.C. 12898a] ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.**

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term “home” means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term “metropolitan statistical area” means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

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

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding \$15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) PROGRAM SCHEDULE.—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.



(3) LOCATION.—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) SALES CONTRACTS.—Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) PROGRAM SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home<sup>1</sup> constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section<sup>2</sup>, the Secretary shall issue final regulations to carry out the provisions of this title.<sup>3</sup> Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(i) FUNDING.—There are authorized to be appropriated to carry out this section \$30,000,000 in each of fiscal years 1993 and 1994.

<sup>1</sup>So in law.

<sup>2</sup>The date of enactment was October 28, 1992.

<sup>3</sup>So in law. Probably intended to refer to this section.

## **ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS**

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

[Public Law 101-625; 104 Stat. 4421; 42 U.S.C. 12713]

#### **SEC. 956. [42 U.S.C. 12713] ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS.**

(a) **ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—**

(1) **DISPLACED HOMEMAKERS.—**No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) **SINGLE PARENTS.—**No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) **DEFINITIONS.—**For purposes of this section:

(1) **DISPLACED HOMEMAKER.—**The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) **FIRST-TIME HOMEBUYER.—**The term “first-time homebuyer” means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) **SINGLE PARENT.—**The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse;

and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) **APPLICABILITY.—**This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.