

**SUPPORTIVE HOUSING FOR PERSONS WITH
DISABILITIES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ So in law.

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

(4) **TENANT-BASED RENTAL ASSISTANCE.**—

(A) **ADMINISTERING ENTITIES.**—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted and had approved a plan under section 7(d) of the United States Housing Act of 1937 (42 U.S.C. 1437e(d)) that provides for such assistance, or through a private nonprofit organization. A public housing agency shall be eligible to apply under this section only for the purposes of providing such tenant-based rental assistance.

(B) **PROGRAM RULES.**—Tenant-based rental assistance under subsection (b)(1) shall be made available to eligible persons with disabilities and administered under the same rules that govern tenant-based rental assistance made available under section 8 of the United States Housing Act of 1937, except that the Secretary may waive or modify such rules, but only to the extent necessary to provide for administering such assistance under subsection (b)(1) through private nonprofit organizations rather than through public housing agencies.

(C) **ALLOCATION OF ASSISTANCE.**—In determining the amount of assistance provided under subsection (b)(1) for a private nonprofit organization or public housing agency, the Secretary shall consider the needs and capabilities of the organization or agency, in the case of a public housing agency, as described in the plan for the agency under section 7 of the United States Housing Act of 1937.

(e) **TERM OF COMMITMENT.**—

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

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

(f) **APPLICATIONS.**—Funds made available under subsection (b)(2) shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for

assistance under subsection (b)(2) shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed housing;
 - (2) a description of the assistance the applicant seeks under this section;
 - (3) a supportive service plan that contains—
 - (A) a description of the needs of persons with disabilities that the housing is expected to serve;
 - (B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;
 - (C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;
 - (D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and
 - (E) identification of the extent of State and local funds available to assist in the provision of such services;
 - (4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;
 - (5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;
 - (6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and
 - (7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.
- (g) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section¹, which shall include—
- (1) the ability of the applicant to develop and operate the proposed housing;
 - (2) the need for housing for persons with disabilities in the area to be served;
 - (3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

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

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

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

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

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

(h) DEVELOPMENT COST LIMITATIONS.—

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

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

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

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

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

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

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

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

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

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

(A) the cost of acquiring such housing,

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

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

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

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL PROJECT ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

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

(5) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from sources other than this section for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

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

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

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that appli-

cants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

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

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

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

(5) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) LABOR STANDARDS.—

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

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

(i) performs services for which the individual volunteered;

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

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

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

(7) USE OF PROJECT RESERVES.—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the

¹So in law.

Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

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

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

(2) The term “person with disabilities” means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term “person with disabilities” includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

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

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

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

(4) The term “independent living facility” means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe, subject to the limitation under subsection (h)(6)¹) in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and

¹ So in law. Probably intended to refer to subsection (l)(4).

operate a project for supportive housing for persons with disabilities.

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

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

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

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

(D)¹ which is approved by the Secretary as to financial responsibility.

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

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

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

(I) ALLOCATION OF FUNDS.—

(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection (b)(2) that is not less than the amount made available in appropriation Acts for such assistance in the preceding year.

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

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

¹Section 841 of the American Homeownership and Economic Opportunity Act of 2000 (P.L. 106-569; 114 Stat. 3022) provides as follows:

"SEC. 841. ELIGIBILITY OF FOR-PROFIT LIMITED PARTNERSHIPS.

"Section 811(k)(6) of the Housing Act of 1959 (42 U.S.C. 8013(k)(6)) is amended by inserting after subparagraph (D) the following:

"Such term includes a for-profit limited partnership the sole general partner of which is an organization meeting the requirements under subparagraphs (A), (B), (C), and (D) or a corporation wholly owned and controlled by an organization meeting the requirements under subparagraphs (A), (B), (C), and (D)."

The amendment probably should have been made to such section of the Cranston-Gonzalez National Affordable Housing Act.

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

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

(4) SIZE LIMITATION.—Of any amounts made available for any fiscal year and used for capital advances or project rental assistance under paragraphs (1) and (2) of subsection (d), not more than 25 percent may be used for supportive housing which contains more than 24 separate dwelling units.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance under this section such sums as may be necessary for each of fiscal years 2001, 2002, and 2003.