

# Housing and Community Development Act of 1992/Title IV

## TITLE IV — MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

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### SEC. 401. DEFINITIONS.

For purposes of this title:

(1) COVERED MULTIFAMILY HOUSING PROPERTY.—

The term “covered multifamily housing property” means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

- (i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;
- (ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act); or
- (iii) the HOME Investment Partnerships Act.

(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—  
The term “covered multifamily housing property for the elderly” means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

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

## **SEC. 402. REQUIRED SUBMISSION.**

(a) IN GENERAL.—

The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title.

(b) TIMING.—

The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties, and the owners of approximately one-third of the aggregate number of covered multifamily housing properties for the elderly, to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

## **SEC. 403. CONTENTS.**

(a) IN GENERAL.—

Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is

maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

**(b) PROJECTS FOR THE ELDERLY.—**

Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

**SEC. 404. SUBMISSION AND REVIEW.**

**(a) FORM.—**

The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

**(b) RESIDENT REVIEW.—**

The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

**(c) STATE HOUSING FINANCE AGENCY REVIEW.—**

To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) REVIEW.—

The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90-day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(e) COST OF PREPARATION OF STRATEGY.—

The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed \$5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) NOTICE.—

The Secretary shall immediately notify each owner submitting a comprehensive needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subsection (d)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

(1) REVIEW.—

The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include

review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act.

(2) REPORT.—

The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

**SEC. 405. TROUBLED MULTIFAMILY HOUSING.**

(a) MANDATORY ELEMENTS.—

Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)) is amended—

(1) in paragraph (5), by striking “and”;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

“(8) the project has a feasible plan to involve the residents in project decisions;

“(9) the affirmative fair housing marketing plan meets applicable requirements; and

“(10) the owner certifies that it will comply with various equal opportunity statutes.”.

(b) SELECTION CRITERIA.—

(1) REPEAL OF SECTION 201(k)(4).—

Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(4)) is repealed.

(2) NEW CRITERIA.—

Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

- “(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:
- “(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.
  - “(B) The extent to which the project is financially troubled.
  - “(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992.
  - “(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).
  - “(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).
  - “(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.
- “(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.”.

(c) LOW-INCOME AFFORDABILITY RESTRICTIONS.—

Section 201(l)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(l)(2)(D)) is amended by adding at the end the following: “The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term “remaining useful life” means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for

occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.”.

(d) EXCLUSIVITY OF ASSISTANCE.—

Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

“(o) Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.”.

(e) OWNER CONTRIBUTIONS.—

Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) in subparagraph (B), by striking “and”;

(2) in subparagraph (C), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.”.

(f) COORDINATION OF ASSISTANCE.—

Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

“(p) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.”.

#### **SEC. 406. FLEXIBLE SUBSIDY PROGRAM.**

Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)(6)) is amended by inserting before the period at the end the following: “; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved”.

#### **SEC. 407. CAPACITY STUDY.**

Section 110(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—

(1) by striking “, and”; and

(2) by striking the period at the end and inserting the following: “, and the ability to respond to areas identified as “material weaknesses” by the Office of the Inspector General in financial audits or other reports.”.

#### **SEC. 408. FLEXIBLE SUBSIDY PROGRAM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(5)) is amended to read as follows:

“(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed \$52,200,000 for fiscal year 1993 and \$54,392,400 for fiscal year 1994.”.

(b) USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDY PAYMENTS.—

Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z-1a(f)(3)) is amended by striking “September 30, 1992” and inserting “September 30, 1994”.