

HOUSING COUNSELING
EXCERPTS FROM HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 484, 490; 12 U.S.C. 1701w, 1701x]

HOMEOWNERSHIP FOR LOWER INCOME FAMILIES

SEC. 101. [12 U.S.C. 1701w] (a)

(e) The Secretary of Housing and Urban Development is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagors whose mortgages are insured under section 235(i) or 235(j)(4) of the National Housing Act as he determines to be necessary to assist such mortgagors in meeting the responsibilities of homeownership. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

TECHNICAL ASSISTANCE, COUNSELING TO TENANTS AND HOMEOWNERS, AND LOANS TO SPONSORS OF LOW- AND MODERATE-INCOME HOUSING

SEC. 106. [12 U.S.C. 1701x]

- (a)(1) The Secretary is authorized to provide, or contract with public or private organizations to provide, information, advice, and technical assistance, including but not limited to—
- (i) the assembly, correlation, publication, and dissemination of information with respect to the construction, rehabilitation, and operation of low- and moderate-income housing;
 - (ii) the provision of advice and technical assistance to public bodies or to nonprofit or cooperative organizations with respect to the construction, rehabilitation, and operation of low- and moderate-income housing, including assistance with respect to self-help and mutual self-help programs;
 - (iii) counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership; and
 - (iv) the provision of technical assistance to communities, particularly smaller communities, to assist such communities in planning, developing, and administering Community Development Programs pursuant to title I of the Housing and Community Development Act of 1974.
- (2) The Secretary
- (A) shall provide the services described in clause (iii) of paragraph (1) for homeowners assisted under section 235 of the National Housing Act;
 - (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949; and
 - (C) may provide such services for other owners of single-family dwelling units insured under title II of the National Housing Act or guaranteed or insured under chapter 37 of title 38, United States Code. For purposes of this paragraph and clause (iii) of paragraph (1), the Secretary may provide the services described in such clause directly or may enter into contracts with, make grants to, and provide other types of assistance to private or public organizations with special competence and knowledge in counseling low- and moderate-income families to provide such services.
- (3) There is authorized to be appropriated for the purposes of this subsection, without fiscal year limitation, such sums as may be necessary, except that for such purposes there are authorized to be appropriated \$6,025,000 for fiscal year 1993 and \$6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to \$500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and

Community Development Act of 1992. Any amounts so appropriated shall remain available until expended.

- (b)(1) The Secretary is authorized to make loans to nonprofit organizations or public housing agencies for the necessary expenses, prior to construction, in planning, and obtaining financing for, the rehabilitation or construction of housing for low- or moderate- income families under section 235 of the National Housing Act or any other federally assisted program. Such loans shall be made without interest and shall not exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site acquisition, application, and mortgage commitment fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the project or sooner, and may cancel any part or all of a loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.
 - (2) The Secretary shall determine prior to the making of any loan that the nonprofit organization or public housing agency meets such requirements with respect to financial responsibility and stability as he may prescribe.
 - (3) There are authorized to be appropriated for the purposes of this subsection not to exceed \$7,500,000, for the fiscal year ending June 30, 1969, and not to exceed \$10,000,000 for the fiscal year ending June 30, 1970. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this paragraph but not appropriated may be appropriated for any succeeding fiscal year.
 - (4) All funds appropriated for the purposes of this subsection shall be deposited in a fund which shall be known as the Low and Moderate Income Sponsor Fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of this subsection. Sums received in repayment of loans made under this subsection shall be deposited in such fund.
- (c) GRANTS FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS. —
- (1) IN GENERAL. —The Secretary of Housing and Urban Development may make grants—
 - (A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and
 - (B) to assist in the establishment of nonprofit homeownership counseling organizations.
 - (2) PROGRAM REQUIREMENTS. —
 - (A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.
 - (B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.
 - (C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—
 - (i) financial management;
 - (ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and
 - (iii) employment training and placement.
 - (3) AVAILABILITY OF HOMEOWNERSHIP COUNSELING. —The Secretary shall take any action that is necessary—
 - (A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—
 - (i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate;

- (ii) are not already adequately served by homeownership counseling organizations; and
- (iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and

(B) to inform the public of the availability of the homeownership counseling.

(4) ELIGIBILITY FOR COUNSELING. —A homeowner shall be eligible for homeownership counseling under this subsection if—

(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

(B) the home loan is not assisted under title V of the Housing Act of 1949; and

(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

- (i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner; or (ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the applicant is a first-time homebuyer who meets the requirements of section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act and the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act.

(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING. —

(A) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING. —

(i) REQUIREMENT.—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

(ii) CONTENT. —Notification under this subparagraph shall—

(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act; and

(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling or provide the toll-free telephone number described in subparagraph (D)(i).

(B) DEADLINE FOR NOTIFICATION. —The notification required in subparagraph (A) shall be made

(i) in a manner approved by the Secretary; and

(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

(C) NOTIFICATION. —Notification under subparagraph (A) shall not be required with respect to any loan for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

(D) ADMINISTRATION AND COMPLIANCE. —The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

- (i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations, which shall be updated annually, that—
 - (I) are approved by the Secretary and experienced in the provision of homeownership counseling; and
 - (II) serve the area in which the residential property of the homeowner is located;
 - (ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and
 - (iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).
- (E) REPORT. —The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.
- (6) DEFINITIONS. —For purposes of this subsection:
- (A) The term “creditor” means a person or entity that is servicing a home loan on behalf of itself or another person or entity.
 - (B) The term “eligible homeowner” means a homeowner eligible for counseling under paragraph (4).
 - (C) The term “home loan” means a loan secured by a mortgage or lien on residential property.
 - (D) The term “homeowner” means a person who is obligated under a home loan.
 - (E) The term “residential property” means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.
- (7) REGULATIONS. —The Secretary shall issue any regulations that are necessary to carry out this subsection.
- (8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$7,000,000 for fiscal year 1993 and \$7,294,000 for fiscal year 1994, of which amounts \$1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D). Any amount appropriated under this subsection shall remain available until expended.
- (d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION. —
- (1) PURPOSES. —The purpose of this subsection is—
 - (A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;
 - (B) to encourage responsible and prudent use of such federally insured home mortgages;
 - (C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and
 - (D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.
 - (2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated pre-purchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.
 - (3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide pre-purchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.
 - (4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based pre-purchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall

submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

(5) PREPURCHASE COUNSELING. —

(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (9)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

- (i) financial management and the responsibilities involved in homeownership;
- (ii) fair housing laws and requirements;
- (iii) the maximum mortgage amount that the homebuyer can afford; and
- (iv) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

(B) ELIGIBILITY FOR COUNSELING. —A homebuyer shall be eligible for pre-purchase counseling under this paragraph if—

- (i) the homebuyer has applied for a qualified mortgage;
- (ii) the homebuyer is a first-time homebuyer; and
- (iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

(6) FORECLOSURE-PREVENTION COUNSELING. —

(A) AVAILABILITY. —Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the delinquency or default.

(B) NOTIFICATION OF DELINQUENCY.—Under the demonstration program, the Secretary shall require the creditor of any eligible homeowner who is delinquent (as described in subparagraph (A)) to send written notice by registered or certified mail within 5 days (excluding Saturdays, Sundays, and legal public holidays) after the occurrence of such delinquency—

- (i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and
- (ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.

(C) COORDINATION WITH EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM. —
The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

(D) ELIGIBILITY FOR COUNSELING. —A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if—

- (i) the home owned by the homeowner is subject to a qualified mortgage; and
- (ii) such home is located in a counseling target area.

(7) SCOPE OF DEMONSTRATION PROGRAM. —

(A) DESIGNATION OF COUNSELING TARGET AREAS. —The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

(B) COUNSELING TARGET AREAS. —Each counseling target area shall consist of a group of contiguous census tracts—

- (i) the population of which is greater than 50,000;
- (ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census

tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

- (iii) in which the average age of existing housing is greater than 20 years; and
- (iv) for which

- (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or
- (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

(E) DESIGNATION OF CONTROL AREAS. —For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

(8) EVALUATION. —Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General may require.

(9) DEFINITIONS. —For purposes of this subsection:

(A) The term “control area” means an area designated by the Secretary under paragraph (7)(E).

(B) The term “counseling target area” means an area designated by the Secretary under paragraph (7)(A).

(C) The term “creditor” means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

(D) The term “displaced homemaker” means an individual who—

- (i) is an adult;
- (ii) 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
- (iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(E) The term “downpayment” means the amount of purchase price of home required to be paid at or before the time of purchase.

(F) The term “eligible homebuyer” means a homebuyer that meets the requirements under paragraph (5)(B).

(G) The term “eligible homeowner” means a homeowner that meets the requirements under paragraph (6)(D).

(H) The term “first-time homebuyer” means an individual who—

- (i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;
- (ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or
- (iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).
- (I) The term “home” includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.
- (J) The term “metropolitan area” means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.
- (K) The term “qualified mortgage” means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.
- (L) The term “Secretary” means the Secretary of Housing and Urban Development.
- (M) The term “single parent” means an individual who—
 - (i) is unmarried or legally separated from a spouse; and
 - (ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or
 - (II) is pregnant.
- (10) REGULATIONS. —The Secretary may issue any regulations necessary to carry out this subsection.
- (11) AUTHORIZATION OF APPROPRIATIONS. —There are authorized to be appropriated to carry out this subsection \$365,000 for fiscal year 1993 and \$380,330 for fiscal year 1994.
- (12) TERMINATION. —The demonstration program under this subsection shall terminate at the end of fiscal year 1994.
- (e) CERTIFICATION. —
 - (1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.
 - (2) STANDARDS AND EXAMINATION. —The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:
 - (A) Financial management.
 - (B) Property maintenance.
 - (C) Responsibilities of homeownership and tenancy.
 - (D) Fair housing laws and requirements.
 - (E) Housing affordability.
 - (F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.
 - (3) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.
- (f) HOMEOWNERSHIP AND RENTAL COUNSELOR TRAINING AND CERTIFICATION PROGRAMS. —
 - (1) ESTABLISHMENT.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.
 - (2) ELIGIBILITY AND SELECTION. —

- (A) ELIGIBILITY. —To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.
- (B) SELECTION. —The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—
- (i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);
 - (ii) minimize the costs involved in establishing the program; and
 - (iii) effectively and efficiently carry out the program.
- (3) TRAINING. —The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.
- (4) CERTIFICATION. —The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.
- (5) FEES.—Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).
- (6) TIMING.—The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.
- (7) AUTHORIZATION OF APPROPRIATIONS. —There are authorized to be appropriated to carry out this subsection \$2,000,000 for fiscal year 1993 and \$2,084,000 for 1994.