

12 U.S. Code § 1701x - Assistance with respect to housing for low- and moderate-income families

(a) Authorization to provide information, advice, and technical assistance; scope of assistance; authorization of appropriations

(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](#) [[42 U.S.C. 5301](#) et seq.].

(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](#) [[12 U.S.C. 1715z](#)]; (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](#) [[42 U.S.C. 1472\(h\)](#)]; and (C) may provide such services for other [owners](#) of single family dwelling units insured under title II of the [National Housing Act](#) [[12 U.S.C. 1707](#) et seq.] or guaranteed or insured under chapter 37 of title 38. 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.

(4) Homeownership and Rental Counseling Assistance.—

(A) In general.—

The [Secretary](#) shall make financial assistance available under this paragraph to HUD-approved housing counseling agencies and [State](#) housing finance agencies.

(B) Qualified entities.—

The [Secretary](#) shall establish standards and guidelines for eligibility of organizations (including governmental and [nonprofit organizations](#)) to receive assistance under this paragraph, in accordance with subparagraph (D).

(C) Distribution.—

Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs and that ensures adequate distribution of amounts for rural areas having traditionally low levels of access to such counseling services, including areas with insufficient access to the Internet. In distributing such assistance, the [Secretary](#) may give priority consideration to entities serving areas with the highest [home](#) foreclosure rates.

(D) Limitation on distribution of assistance.—

(i) In general.—None of the amounts made available under this paragraph shall be distributed to—

(I)

any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(II)

any organization which employs [applicable individuals](#).

(ii) Definition of applicable individuals.—In this subparagraph, the term “[applicable individual](#)” means an individual who—

(I) is—

(aa)

employed by the organization in a permanent or temporary capacity;

(bb)

contracted or retained by the organization; or

(cc)

acting on behalf of, or with the express or apparent authority of, the organization; and

(II)

has been convicted for a violation under Federal law relating to an election for Federal office.

(E) Grantmaking process.—

In making assistance available under this paragraph, the [Secretary](#) shall consider appropriate ways of streamlining and improving the processes for grant application, review, approval, and award.

(F) Authorization of appropriations.—There are authorized to be appropriated \$45,000,000 for each of fiscal years 2009 through 2012 for—

(i)

the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;

(ii)

the responsibilities of the Director of Housing Counseling under paragraphs (2) through (5) of subsection (g); and

(iii)

assistance pursuant to this paragraph for entities providing homeownership and rental counseling.

(b) Loans to nonprofit organizations or public housing agencies; purpose and terms; repayment; authorization of appropriations; deposit of appropriations in Low and Moderate Income Sponsor Fund

(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 \[12 U.S.C. 1715z\]](#) 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](#) [[12 U.S.C. 1709](#)]; and

(B)

to inform the public of the availability of the [homeownership counseling](#).

(4) Eligibility for counselingA [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](#) [[42 U.S.C. 1471](#) et seq.]; 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](#);

(ii)

any similar loss or reduction experienced by any person who contributes to the income of the [homeowner](#);

(iii)

a significant reduction in the income of the household due to divorce or death; or

(iv) a significant increase in basic expenses of the [homeowner](#) or an immediate family member of the [homeowner](#) (including the spouse, child, or parent for whom the [homeowner](#) provides substantial care or financial assistance) due to—

(I)

an unexpected or significant increase in medical expenses;

(II)

a divorce;

(III)

unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

(IV)

a large property-tax increase; or

(D)

the [Secretary](#) of Housing and Urban Development determines that the annual income of the [homeowner](#) is no greater than the annual income established by the [Secretary](#) as being of low- or moderate-income.

(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 \[12 U.S.C. 1709\]](#);

(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);

(IV)

notify the [homeowner](#) by a statement or notice, written in plain English by the [Secretary](#) of Housing and Urban Development, in consultation with the Secretary of Defense and the [Secretary](#) of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the [Servicemembers Civil Relief Act \(50 U.S.C. App. 501 et seq.\)](#) [now [50 U.S.C. 3901](#) et seq.], including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance; and

(V)

notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).

(B) Deadline for notificationThe 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 complianceThe [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) PurposesThe 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 prepurchase 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 prepurchase 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 prepurchase 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 prepurchase 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](#) [[12 U.S.C. 1707](#) et seq.].

(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), (a)(4), (c), or (d) of this section, or under [section 1701w of this title](#), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the [Secretary](#) under this subsection as competent to provide such counseling.

(2) Standards and examinationThe [Secretary](#) shall, by regulation, establish standards and procedures for testing and certifying counselors and for certifying organizations. Such standards and procedures shall require, for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual, 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) Requirement under HUD programs

Any [homeownership counseling](#) or [rental housing counseling](#) (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the [Secretary](#) under this subsection as competent to provide such counseling.

(4) Outreach

The [Secretary](#) shall take such actions as the [Secretary](#) considers appropriate to ensure that individuals and organizations providing homeownership or [rental housing counseling](#) are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).

(5) Encouragement

The [Secretary](#) shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ organizations and 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) SelectionThe [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.

(g) Procedures and activities

(1) Counseling procedures

(A) In general

The [Secretary](#) shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for [homeownership counseling](#) and [rental housing counseling](#) provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and [rental housing counseling](#).

(B) Homeownership counseling For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term “[homeownership counseling](#)” means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to—

(i)

section 105(a)(20) of the [Housing and Community Development Act of 1974](#) ([42 U.S.C. 5305\(a\)\(20\)](#));

(ii) in the [United States Housing Act of 1937](#) [[42 U.S.C. 1437](#) et seq.]—

(I)

section 9(e) ([42 U.S.C. 1437g\(e\)](#));

(II)

section 8(y)(1)(D) ([42 U.S.C. 1437f\(y\)\(1\)\(D\)](#));

(III)

[section 18\(a\)\(4\)\(D\)](#) ([42 U.S.C. 1437p\(a\)\(4\)\(D\)](#));

(IV)

[section 23\(c\)\(4\)](#) ([42 U.S.C. 1437u\(c\)\(4\)](#));

(V)

[section 32\(e\)\(4\)](#) ([42 U.S.C. 1437z-4\(e\)\(4\)](#));

(VI)

[section 33\(d\)\(2\)\(B\)](#) ([42 U.S.C. 1437z-5\(d\)\(2\)\(B\)](#));

(VII)

sections [302\(b\)\(6\)](#) and [303\(b\)\(7\)](#) ([42 U.S.C. 1437aaa-1\(b\)\(6\)](#), [1437aaa-2\(b\)\(7\)](#)); and

(VIII)

[section 304\(c\)\(4\)](#) ([42 U.S.C. 1437aaa-3\(c\)\(4\)](#));

(iii)

section 302(a)(4) of the [American Homeownership and Economic Opportunity Act of 2000](#) ([42 U.S.C. 1437f](#) note);

(iv)

sections 12773(b)(2) and 12808(b) of title 42;

(v)

this section and [section 1701w of this title](#);

(vi)

[section 4110\(d\)\(2\)\(G\) of this title](#);

(vii)

sections 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6) of title 42;

(viii)

section 11408(b)(1)(F)(iii) [\[1\]](#) of title 42;

(ix)

[sections 202\(3\)](#) 1 and 810(b)(2)(A) 1 of the Native American Housing and Self-Determination Act of 1996 ([25 U.S.C. 4132\(3\)](#), [4229\(b\)\(2\)\(A\)](#));

(x) in the [National Housing Act](#) [[12 U.S.C. 1701](#) et seq.]—

(I)

in [section 203](#) ([12 U.S.C. 1709](#)), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);

(II)

subsections (a) and (c)(3) of section 237; 1 and

(III)

subsections (d)(2)(B) and (m)(1) of [section 255 \(12 U.S.C. 1715z–20\)](#);

(xi)

section 502(h)(4)(B) of the [Housing Act of 1949 \(42 U.S.C. 1472\(h\)\(4\)\(B\)\)](#);

(xii)

[section 1701z–7 of this title](#); and

(xiii)

[section 1701z–16 of this title](#).

(C) Rental housing counseling For purposes of this subsection, the term “[rental housing counseling](#)” means counseling related to rental of [residential property](#), which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to—

(i)

section 105(a)(20) of the [Housing and Community Development Act of 1974 \(42 U.S.C. 5305\(a\)\(20\)\)](#);

(ii) in the [United States Housing Act of 1937](#)—

(I)

section 9(e) ([42 U.S.C. 1437g\(e\)](#));

(II)

[section 18\(a\)\(4\)\(D\) \(42 U.S.C. 1437p\(a\)\(4\)\(D\)\)](#);

(III)

[section 23\(c\)\(4\) \(42 U.S.C. 1437u\(c\)\(4\)\)](#);

(IV)

[section 32\(e\)\(4\) \(42 U.S.C. 1437z–4\(e\)\(4\)\)](#);

(V)

[section 33\(d\)\(2\)\(B\) \(42 U.S.C. 1437z–5\(d\)\(2\)\(B\)\)](#); and

(VI)

[section 302\(b\)\(6\) \(42 U.S.C. 1437aaa–1\(b\)\(6\)\)](#);

(iii)

[section 12773\(b\)\(2\) of title 42;](#)

(iv)

this section;

(v)

[section 12872\(b\)\(6\) of title 42;](#)

(vi)

section 11408(b)(1)(F)(iii) 1 of title 42;

(vii)

[sections 202\(3\)](#) 1 and 810(b)(2)(A) 1 of the Native American Housing and Self-Determination Act of 1996 ([25 U.S.C. 4132\(3\)](#), 4229(b)(2)(A)); and

(viii)

the rental assistance program under section 8 of the [United States Housing Act of 1937](#) ([42 U.S.C. 1437f](#)).

(2) Standards for materials

The [Secretary](#), in consultation with the advisory committee established under subsection (g)(4) 1 of the [Department of Housing and Urban Development Act](#), shall establish standards for materials and forms to be used, as appropriate, by organizations providing [homeownership counseling](#) services, including any recipients of assistance pursuant to subsection (a)(4).

(3) Mortgage software systems

(A) CertificationThe [Secretary](#) shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The [Secretary](#) shall require, for such certification, that the mortgage software systems take into account—

(i)

the consumer's financial situation and the cost of maintaining a [home](#), including insurance, taxes, and utilities;

(ii)

the amount of time the consumer expects to remain in the [home](#) or expected time to maturity of the loan; and

(iii)

such other factors as the [Secretary](#) considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the [Secretary](#) determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the [Secretary](#) shall arrange for the development by private sector software companies of new mortgage software systems that meet the [Secretary's](#) specifications.

(B) Use and initial availability

Such certified computer software programs shall be used to supplement, not replace, housing counseling. The [Secretary](#) shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

(C) Availability

After a period of initial availability under subparagraph (B) as the [Secretary](#) considers appropriate, the [Secretary](#) shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

(D) Budget compliance

This paragraph shall be effective only to the extent that amounts to carry out this paragraph are made available in advance in appropriations Acts.

(4) National public service multimedia campaigns to promote housing counseling

(A) In general

The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a [home, elderly persons](#), persons who face language barriers, low-income persons, minorities, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain [homeownership counseling](#) from an unbiased and reliable sources [\[2\]](#) and that such [homeownership counseling](#) is available, including through programs sponsored by the [Secretary](#) of Housing and Urban Development.

(B) Contact information

Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and website of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their [State](#) that is certified by the [Secretary](#) of Housing and Urban Development and can provide advice on buying a [home](#), renting, defaults, foreclosures, credit issues, and reverse mortgages.

(C) Authorization of appropriations

There are authorized to be appropriated to the [Secretary](#), not to exceed \$3,000,000 for fiscal years 2009, 2010, and 2011, for the development, implementation, and conduct of national public service multimedia campaigns under this paragraph.

(D) Foreclosure rescue education programs

(i) In general Ten percent of any funds appropriated pursuant to the authorization under subparagraph (C) shall be used by the Director of Housing Counseling to conduct an education program in areas that have a high density of foreclosure. Such program shall involve direct mailings to persons living in such areas describing—

(I)

tips on avoiding foreclosure rescue scams;

(II)

tips on avoiding predatory lending mortgage agreements;

(III)

tips on avoiding for-profit foreclosure counseling services; and

(IV)

local counseling resources that are approved by the Department of Housing and Urban Development.

(ii) Program emphasis

In conducting the education program described under clause (i), the Director of Housing Counseling shall also place an emphasis on serving communities that have a [high percentage of retirement communities](#) or a high percentage of low-income minority communities.

(iii) Terms defined For purposes of this subparagraph:

(I) High density of foreclosures

An area has a “[high density of foreclosures](#)” if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest [home](#) foreclosure rates.

(II) High percentage of retirement communities

An area has a “[high percentage of retirement communities](#)” if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest percentage of residents aged 65 or older.

(III) High percentage of low-income minority communities

An area has a “high percentage of low-income minority communities” if such area contains a higher-than-normal percentage of residents who are both minorities and low-income, as defined by the Director of Housing Counseling.

(5) Education programs

The [Secretary](#) shall provide advice and technical assistance to [States](#), units of general local government, and [nonprofit organizations](#) regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as [elderly persons](#), persons facing language barriers, low-income persons, minorities, and other potentially vulnerable consumers), regarding [home](#) mortgages, mortgage refinancing, [home](#) equity loans, [home](#) repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage.

(h) Definitions For purposes of this section:

(1) Nonprofit organization

The term “[nonprofit organization](#)” has the meaning given such term in [section 12704\(5\) of title 42](#), except that subparagraph (D) of such section shall not apply for purposes of this section.

(2) State

The term “[State](#)” means each of the several [States](#), the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United [States](#).

(3) Unit of general local government

The term “[unit of general local government](#)” means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a [State](#).

(4) HUD-approved counseling agency The term “[HUD-approved counseling agency](#)” means a private or public [nonprofit organization](#) that is—

(A)

exempt from taxation under [section 501\(c\) of title 26](#); and

(B)

certified by the [Secretary](#) to provide housing counseling services.

(5) State housing finance agency

The term “[State housing finance agency](#)” means any public body, agency, or instrumentality specifically created under [State](#) statute that is authorised to finance activities designed to provide housing and related facilities throughout an entire [State](#) through land acquisition, construction, or rehabilitation.

(i) Accountability for recipients of covered assistance

(1) Tracking of fundsThe [Secretary](#) shall—

(A)

develop and maintain a system to ensure that any organization or entity that receives any [covered assistance](#) uses all amounts of [covered assistance](#) in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

(B) require any organization or entity, as a condition of receipt of any [covered assistance](#), to agree to comply with such requirements regarding [covered assistance](#) as the [Secretary](#) shall establish, which shall include—

(i)

appropriate periodic financial and grant activity reporting, record retention, and audit requirements for the duration of the [covered assistance](#) to the organization or entity to ensure compliance with the limitations and requirements of this section, the regulations under this section, and any requirements or conditions under which such amounts were provided; and

(ii)

any other requirements that the [Secretary](#) determines are necessary to ensure appropriate administration and compliance.

(2) Misuse of fundsIf any organization or entity that receives any [covered assistance](#) is determined by the [Secretary](#) to have used any [covered assistance](#) in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such assistance was provided—

(A)

the [Secretary](#) shall require that, within 12 months after the determination of such misuse, the organization or entity shall reimburse the [Secretary](#) for such misused amounts and return to the [Secretary](#) any such amounts that remain unused or uncommitted for use; and

(B)

such organization or entity shall be ineligible, at any time after such determination, to apply for or receive any further [covered assistance](#).

The remedies under this paragraph are in addition to any other remedies that may be available under law.

(3) Covered assistance

For purposes of this subsection, the term “[covered assistance](#)” means any grant or other financial assistance provided under this section.

([Pub. L. 90–448, title I, § 106](#), Aug. 1, 1968, [82 Stat. 490](#); [Pub. L. 91–609, title IX, § 903\(a\)](#), (b), Dec. 31, 1970, [84 Stat. 1808](#); [Pub. L. 93–383, title VIII, § 811](#), Aug. 22, 1974, [88 Stat. 735](#); [Pub. L. 95–128, title IX, § 903](#), Oct. 12, 1977, [91 Stat. 1149](#); [Pub. L. 97–35, title III, § 339A](#), Aug. 13, 1981, [95 Stat. 417](#); [Pub. L. 98–181, title I](#) [title IV, § 465], Nov. 30, 1983, [97 Stat. 1236](#); [Pub. L. 98–479, title II, § 204\(f\)](#), Oct. 17, 1984, [98 Stat. 2233](#); [Pub. L. 100–242, title I, § 169](#), Feb. 5, 1988, [101 Stat. 1865](#); [Pub. L. 100–628, title X, § 1009](#), Nov. 7, 1988, [102 Stat. 3266](#); [Pub. L. 101–137, § 8](#), Nov. 3, 1989, [103 Stat. 826](#); [Pub. L. 101–625, title V, § 577](#), title VII, § 706(c), Nov. 28, 1990, [104 Stat. 4238](#), 4286; [Pub. L. 102–550, title I, § 162\(a\)–\(d\)](#), Oct. 28, 1992, [106 Stat. 3719–3721](#); [Pub. L. 104–316, title I, § 106\(a\)](#), Oct. 19, 1996, [110 Stat. 3830](#); [Pub. L. 105–276, title V, § 594\(a\)](#), (b), Oct. 21, 1998, [112 Stat. 2655](#); [Pub. L. 107–73, title II, § 205](#), Nov. 26, 2001, [115 Stat. 674](#); [Pub. L. 109–163, div. A, title VI, § 688\(a\)](#), Jan. 6, 2006, [119 Stat. 3336](#); [Pub. L. 110–289, div. B, title I, § 2127](#), July 30, 2008, [122 Stat. 2841](#); [Pub. L. 111–203, title XIV, §§ 1443–1445, 1448, 1449](#), July 21, 2010, [124 Stat. 2165–2171](#), 2173, 2174.)