**§ 1437e** TITLE 42—THE PUBLIC HEALTH AND WELFARE Page 3762

Development conduct a study of payment in lieu of taxes made under subsec. (d) of this section and report to the Congress on the status and adequacy of such payments not later than 12 months after Oct. 12, 1977.

**§ 1437e. Designated housing for elderly and dis­abled families**

**(a) Authority to provide designated housing**

1. **In general**

Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) of this section is in effect may provide public housing projects (or por­tions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

1. **Priority for occupancy**

In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of fami­lies for whom the project is designated.

1. **Eligibility of near-elderly families**

If a public housing agency determines that there are insufficient numbers of elderly fami­lies to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

**(b) Standards regarding evictions**

Except as provided in section 1437n(e)(1)(B) 1 of this title, any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursu­ant to this section.

**(c) Relocation assistance**

A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) of this section shall provide, to each per­son and family who agrees to be relocated in connection with such designation—

1. notice of the designation and an expla­nation of available relocation benefits, as soon as is practicable for the agency and the person or family;
2. access to comparable housing (including appropriate services and design features), which may include tenant-based rental assist­ance under section 1437f of this title, at a rent­al rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and
3. payment of actual, reasonable moving ex­penses.

**(d) Required plan**

A plan under this subsection for designating a project (or portion of a project) for occupancy

1 See References in Text note below.

under subsection (a)(1) of this section is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

1. to achieve the housing goals for the ju­risdiction under the comprehensive housing affordability strategy under section 12705 of this title; and
2. to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

1. the project (or portion of a project) to be designated;
2. the types of tenants for which the project is to be designated;
3. any supportive services to be provided to tenants of the designated project (or por­tion);
4. how the design and related facilities (as such term is defined in section 1701q(d)(8) 1 of title 12) of the project accom­modate the special environmental needs of the intended occupants; and
5. any plans to secure additional re­sources or housing assistance to provide as­sistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term “sup­portive services” means services designed to meet the special needs of residents.

**(e) Review of plans**

1. **Review and notification**

The Secretary shall conduct a limited re­view of each plan under subsection (d) of this section that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d) of this section. The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public hous­ing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) of this section and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

1. **Notice of reasons for determination of non­compliance**

If the Secretary determines that a plan, as submitted, does not comply with the require­ments under subsection (d) of this section, the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompli­ance and any modifications necessary for the plan to meet such requirements.

1. **Standards for determination of noncompli­ance**

The Secretary may determine that a plan does not comply with the requirements under subsection (d) of this section only if—

1. the plan is incomplete in significant matters required under such subsection; or
2. there is evidence available to the Sec­retary that challenges, in a substantial man­ner, any information provided in the plan.

Page 3763 TITLE 42—THE PUBLIC HEALTH AND WELFARE **§ 1437e**

**(4) Treatment of existing plans**

Notwithstanding any other provision of this section, a public housing agency shall be con­sidered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before March 28, 1996) that have not been approved or dis­approved before March 28, 1996.

**(f) Effectiveness**

1. **5-year effectiveness of original plan**

A plan under subsection (d) of this section shall be in effect for purposes of this section during the 5-year period that begins upon noti­fication under subsection (e)(1) of this section of the public housing agency that the plan complies with the requirements under sub­section (d) of this section.

1. **Renewal of plan**

Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the ef­fectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Sec­retary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

1. **Transition provision**

Any application and allocation plan ap­proved under this section (as in effect before March 28, 1996) before March 28, 1996, shall be considered to be a plan under subsection (d) of this section that is in effect for purposes of this section for the 5-year period beginning upon such approval.

**(g) Inapplicability of Uniform Relocation Assist­ance and Real Property Acquisitions Policy Act of 1970**

No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Prop­erty Acquisitions Policy Act of 1970 [42 U.S.C. 4601 et seq.] because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(Sept. 1, 1937, ch. 896, title I, § 7, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 95–557, title IV, § 412, Oct. 31, 1978, 92 Stat. 2110; Pub. L. 100–242, title I, § 112(b)(3), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; amended Pub. L. 102–550, title VI, § 622(a), Oct. 28, 1992, 106 Stat. 3813; Pub. L. 104–99, title IV, § 402(d)(6)(A)(ii), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104–120, § 10(a), Mar. 28, 1996, 110 Stat. 838; Pub. L. 104–330, title V, § 501(b)(4), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, § 595(d), Oct. 21, 1998, 112 Stat. 2656.)

REFERENCES IN TEXT

Section 1437n(e)(1)(B) of this title, referred to in sub-sec. (b), was repealed by Pub. L. 105–276, title V, § 576(d)(2), Oct. 21, 1998, 112 Stat. 2640.

Section 1701q of title 12, referred to in subsec. (d)(2)(D), was amended generally by Pub. L. 101–625,

title VIII, § 801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, does not contain a subsec. (d)(8) or a defini­tion of the term “related facilities”.

The Uniform Relocation Assistance and Real Prop­erty Acquisitions Policy Act of 1970, referred to in sub-sec. (g), probably means the Uniform Relocation Assist­ance and Real Property Acquisition Policy Act of 1970, Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified principally to chapter 61 (§ 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under sec­tion 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 7 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, required publication of information and submission of annual report by the Authority and was classified to section 1407 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–276 struck out heading and text of subsec. (h). Text read as follows: “The pro­visions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian hous­ing authority.”

1996—Pub. L. 104–330, § 501(b)(4), which directed amendment of “subsection 7” of the United States Housing Act of 1937, probably meaning this section, by striking subsec. (*l*), could not be executed because this section does not contain a subsec. (*l*).

Pub. L. 104–120 amended section generally, restating former subsecs. (a) to (g) relating to designated housing as subsecs. (a) to (h) relating to designated housing for elderly and disabled families.

Subsec. (a)(2). Pub. L. 104–99, which directed the tem­porary amendment of par. (2) by substituting “in ac­cordance with the written system of preferences for se­lection established pursuant to” for “according to the preferences for occupancy under”, could not be exe­cuted because of the amendment by Pub. L. 104–120 which amended section generally retroactive to Oct. 1, 1995. See Effective and Termination Dates of 1996 Amendments note below.

1992—Pub. L. 102–550 amended section generally, sub­stituting present provisions for provisions relating to and defining “congregate housing” and providing for design, development, and acquisition of congregate housing for displaced or elderly families, limitation on amounts for contracts for congregate housing, and costs for central dining facilities.

1988—Pub. L. 100–242 struck out “annual” before “contributions” in proviso.

1978—Pub. L. 95–557 substituted “(1) low-rent housing which, as of January 1, 1979, was built or under con­struction, with which there is connected a central din­ing facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of con­gregate housing may also be provided with other sup­portive services appropriate to their needs under title IV of the Housing and Community Development Amendments of 1978” for “low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation”.

EFFECTIVE AND TERMINATION DATES OF 1996
AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107

**§ 1437f** TITLE 42—THE PUBLIC HEALTH AND WELFARE Page 3764

of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amend­ments by sections 9 and 10 of Pub. L. 104–120 or any fail­ure by Secretary to issue any such regulations, see sec­tion 13 of Pub. L. 104–120, set out as a note under sec­tion 1437d of this title.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO
INDIAN PUBLIC HOUSING

Amendment by Pub. L. 102–550 not applicable with re­spect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

**§ 1437f. Low-income housing assistance**

**(a) Authorization for assistance payments**

For the purpose of aiding low-income families in obtaining a decent place to live and of pro­moting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

**(b) Other existing housing programs**

1. IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwell­ing units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to imple­ment the provisions of this section, the Sec­retary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.
2. The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with subchapter II–A of this chapter. Each contract entered into under this subsection shall be for a term of not more than 60 months.

**(c) Contents and purposes of contracts for assist­ance payments; amount and scope of month­ly assistance payments**

(1) An assistance contract entered into pursu­ant to this section shall establish the maximum monthly rent (including utilities and all mainte­nance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance pay­ments are to be made. The maximum monthly rent shall not exceed by more than 10 per cen-tum the fair market rental established by the

Secretary periodically but not less than annu­ally for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the max­imum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher max­imum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agen­cy in accordance with paragraph (3)(B). In the case of newly constructed and substantially re­habilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and ob­ligated with respect to any fiscal year beginning on or after October 1, 1980. Proposed fair market rentals for an area shall be published in the Fed­eral Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after October 12, 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this para­graph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County. If units assisted under this section are exempt from local rent control while they are so as­sisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are ex­empt from local rent control.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair mar­ket rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a rea­sonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabili­tation project, to be adjusted using an annual adjustment factor exceeds the fair market rent­al for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to