

Housing and Community Development Act of 1992/Title V/Subtitle C

==SUBTITLE C —IMPROVEMENT OF FINANCING FOR MULTIFAMILY HOUSING==

SEC. 541. SHORT TITLE.

This subtitle may be cited as the ``Multifamily Housing Finance Improvement Act``.

SEC. 542. MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS.

(a) IN GENERAL.—

The Secretary of Housing and Urban Development (hereinafter referred to as the ``Secretary``) shall carry out programs through the Federal Housing Administration to demonstrate the effectiveness of providing new forms of Federal credit enhancement for multifamily loans. In carrying out demonstration programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) RISK-SHARING PILOT PROGRAM.—

(1) IN GENERAL.—

The Secretary shall carry out a pilot program through the Federal Housing Administration to provide for risk sharing related to mortgages on multifamily housing.

(2) AUTHORITY FOR REINSURANCE AGREEMENTS.—

The Secretary may enter into reinsurance agreements (as such term is defined in section 544) with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, qualified housing finance agencies, and the Federal Housing Finance Board. The agreements may provide for risk-sharing and other forms of credit enhancement with respect to mortgage lending on multifamily housing, including reinsurance with respect to pools of loans on multifamily housing properties, that the Secretary determines to be appropriate to carry out the purposes of this subsection. The agreements shall be in a form and have such terms and conditions as the Secretary determines to be appropriate to carry out the purposes of this subsection.

(3) DEVELOPMENT OF ALTERNATIVES.—

The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(4) ELIGIBILITY STANDARDS.—

The Secretary shall establish and enforce standards for financial institutions and entities to be eligible to enter into reinsurance agreements under this subsection, as the Secretary determines to be appropriate.

(5) FUNDING.—

Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 15,000 units over fiscal years 1993 and 1994. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress.

(6) FEES.—

The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(7) NON-FEDERAL PARTICIPATION.—

The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(8) TIMING.—

The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection not later than the expiration of the 8-month period beginning on the date of the enactment of this Act.

(c) HOUSING FINANCE AGENCY PILOT PROGRAM.—

(1) IN GENERAL.—

The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

(2) PILOT PROGRAM REQUIREMENTS.—

(A) IN GENERAL.—

In carrying out the pilot program authorized under this subsection, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

(B) MORTGAGE INSURANCE.—

Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

(C) RISK APPORTIONMENT.—

Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.

(D) REIMBURSEMENT CAPACITY.—

Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

- (i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;
- (ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);
- (iii) funds pledged through a State or local guarantee fund; or
- (iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

(E) UNDERWRITING STANDARDS.—

The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

(3) MORTGAGE INSURANCE PREMIUMS.—

The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

(4) LIMITATION ON INSURANCE AUTHORITY.—

Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection with respect to mortgages on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

(5) IDENTITY OF INTEREST.—

Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

(6) PROHIBITION ON GINNIE MAE SECURITIZATION.—

The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

(7) QUALIFICATION AS AFFORDABLE HOUSING.—

Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by very low-income families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986.

(8) REGULATIONS.—

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out this subsection.

(d) INDEPENDENT STUDIES AND REPORTS.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—

The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—

The Federal Home Loan Mortgage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(3) SECRETARY.—

The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under each of the pilot programs. The Secretary shall submit and publish a preliminary report under this paragraph not later than 9 months after

the date of the implementation of each of the pilot programs, and a final report not later than 24 months after the date of implementation on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

(4) **COMPTROLLER GENERAL.**—

The Comptroller General of the United States shall carry out an evaluation of each of the pilot programs under this section and shall submit to the Congress, not later than 30 months after the date of implementation for each of the pilot programs, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section. The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act.

(5) **FEDERAL HOUSING FINANCE BOARD.**—

The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot programs under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 9 months after the date of the enactment of this Act, and a final report containing such findings not later than 24 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

SEC. 543. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

(a) **PURPOSE.**—

The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) **ESTABLISHMENT OF TASK FORCE.**—

There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the “Task Force”).

(c) **MEMBERSHIP OF TASK FORCE.**—

(1) **FEDERAL OFFICIALS.**—

The Task Force shall be composed of—

- (A) the Secretary of Housing and Urban Development;
 - (B) the Chairperson of the Federal Housing Finance Board;
 - (C) the Comptroller of the Currency;
 - (D) the Chairman of the Board of Governors of the Federal Reserve System;
 - (E) the Director of the Office of Thrift Supervision;
 - (F) the Chairperson of the Federal Deposit Insurance Corporation;
 - (G) the Chairperson of the Federal National Mortgage Association; and
 - (H) the Chairperson of the Federal Home Loan Mortgage Corporation,
- or their designees, and the persons appointed under paragraphs (2) and (3).

(2) **APPOINTMENTS BY THE SECRETARY.**—

The Secretary shall appoint as members of the Task Force—

- (A) 1 individual who is a representative of a State housing finance agency;

(B) 1 individual who is a representative of a local housing finance agency;

(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—

The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—

The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

(2) MEETINGS.—

The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—

A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—

Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—

Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—

Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—

The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the

projected needs of lenders, investors, sponsors, property managers, and public officials;

(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(2) FINAL REPORT.—

Not later than 1 year following the enactment of this Act, the Task Force shall submit to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) AUTHORITY OF TASK FORCE.—

(1) RULES AND REGULATIONS.—

The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2) ACCESS TO DATA.—

The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under

subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(3) SAMPLE DATA.—

In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(4) AGENCY RESOURCES.—

The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—

The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—

The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—

The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—

The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section not to exceed \$6,000,000 for fiscal year 1993 and \$6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

SEC. 544. DEFINITIONS.

For purposes of this subtitle:

- (1) The term “multifamily housing” means a property consisting of more than 4 dwelling units.
- (2) The term “qualified housing finance agency” means any State or local housing finance agency that—
 - (A) carries the designation of “top tier” or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;
 - (B) receives a rating of “A” for its general obligation bonds from a nationally recognized rating agency; or
 - (C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.
- (3) The term “reinsurance agreement” means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.
- (4) The term “Secretary” means the Secretary of Housing and Urban Development.

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