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

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#### (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 centum 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,

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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 the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

**(B)** The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are

not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title.

**(C)** Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in

effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 1437a (a) of this title. Reviews of family income shall be made no less frequently than annually.

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days

(A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or

(B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(6) Redesignated (5).

(7) Repealed. Pub. L. 105-276, title V, § 550(a)(3)(C), Oct. 21, 1998, 112 Stat. 2609.

(8)

(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating

contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

**(C)** Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

**(D)** For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

**(9)**

**(A)** That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

**(B)** An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

**(C)**

**(i)** Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

**(ii)** Notwithstanding clause (i) or any Federal, State, or local law to the contrary, an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.

**(iii)** Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

**(iv)** Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

**(v)** Nothing in clause (i) may be construed to limit the authority of an owner, manager, or public housing agency to evict or terminate from assistance any tenant or lawful occupant if the owner, manager

or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

(vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(d) Required provisions and duration of contracts for assistance payments; waiver of limitation**

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c-1 of this title by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission;

**(B)**

(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy, except that:

(I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking;

(II) Notwithstanding <sup>[1]</sup> subclause (I) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any

individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. <sup>[2]</sup>

**(III)** nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up;

**(IV)** nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate;

**(V)** nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to <sup>[3]</sup> any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and

**(VI)** nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.; <sup>[4]</sup>

**(iv)** any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

**(v)** it shall be cause for termination of the tenancy of a tenant if such tenant—

**(I)** is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

**(II)** is violating a condition of probation or parole imposed under Federal or State law;

**(C)** maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

**(D)** the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

**(2)**

**(A)** Each contract for an existing structure entered into under this

section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

**(B)**

**(i)** In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 <sup>[5]</sup> of the Housing and Community Development Act of 1992 [42 U.S.C. 13631] to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

**(ii)** The budget authority available under section 1437c (c) of this title for assistance under this section is authorized to be increased by \$15,000,000 on or after October 1, 1992, and by \$15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983) only for such purpose.

**(C)** An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

**(D)** An owner of a covered section 8 [42 U.S.C. 1437f] housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992 [42 U.S.C. 13619]) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13611 et seq.].

**(3)** Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

**(4)** A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

**(5) Calculation of limit.—** Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

**(6) Treatment of common areas.—** The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a



new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

**(e) Restrictions on contracts for assistance payments**

(1) Nothing in this chapter shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: Provided, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(2) Repealed. Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

**(f) Definitions**

As used in this section—

(1) the term “owner” means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms “rent” or “rental” mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term “debt service” means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this chapter;

(4) the term “participating jurisdiction” means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.];

(5) the term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21);

(6) the term “project-based assistance” means rental assistance under subsection (b) of this section that is attached to the structure pursuant to subsection (d)(2) or (o)(13) of this section;

(7) the term “tenant-based assistance” means rental assistance under subsection (o) of this section that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing;

(8) the term “domestic violence” has the same meaning given the term in section 13925 of this title;

(9) the term “dating violence” has the same meaning given the term in section 13925 of this title;

(10) the term “stalking” means—

**(A)**

(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or

(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

**(B)** in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

- (i) that person;
- (ii) a member of the immediate family of that person; or
- (iii) the spouse or intimate partner of that person; and

(11) the term "immediate family member" means, with respect to a person

—

- (A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or
- (B) any other person living in the household of that person and related to that person by blood or marriage.

**(g) Regulations applicable for implementation of assistance payments**

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of title 12.

**(h) Nonapplicability of inconsistent provisions to contracts for assistance payments**

Sections 1437c (e) and 1437d of this title (except as provided in section 1437d (j)(3) of this title), and any other provisions of this chapter which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

**(i) Receipt of assistance by public housing agency under other law not to be considered**

The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013 (b)(1)], or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

**(j) Repealed. Pub. L. 105–276, title V, § 550(a)(6), Oct. 21, 1998, 112 Stat. 2609**

**(k) Verification of income**

The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act [42 U.S.C. 301 et seq.], the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.], or title 38. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

**(l) , (m) Repealed. Pub. L. 98–181, title II, § 209(a)(5), Nov. 30, 1983, 97 Stat. 1183**

**(n) Repealed. Pub. L. 105–276, title V, § 550(a)(7), Oct. 21, 1998, 112 Stat. 2609**

**(o) Voucher program**

**(1) Authority**

**(A) In general**

The Secretary may provide assistance to public housing agencies for

tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

**(B) Establishment of payment standard**

Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) of this section for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental.

**(C) Set-aside**

The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

**(D) Approval**

The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental.

**(E) Review**

The Secretary—

- (i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and
- (ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

**(2) Amount of monthly assistance payment**

Subject to the requirement under section [1437a \(a\)\(3\)](#) of this title (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

**(A) Tenant-based assistance; rent not exceeding payment standard**

For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

- (i) 30 percent of the monthly adjusted income of the family.
- (ii) 10 percent of the monthly income of the family.
- (iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

**(B) Tenant-based assistance; rent exceeding payment standard**

For a family receiving tenant-based assistance, if the rent for the

family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

**(C) Families receiving project-based assistance**

For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 1437a (a)(1) of this title, and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

**(3) 40 percent limit**

At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

**(4) Eligible families**

To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

- (A) a very low-income family;
- (B) a family previously assisted under this subchapter;
- (C) a low-income family that meets eligibility criteria specified by the public housing agency;
- (D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or
- (E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4113, 4116].

**(5) Annual review of family income**

**(A) In general**

Reviews of family incomes for purposes of this section shall be subject to the provisions of section 3544 of this title and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

**(B) Procedures**

Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate. Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

**(6) Selection of families and disapproval of owners**

**(A) Preferences**

- (i) Authority to establish Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18) that has been reported to

an appropriate law enforcement agency.

(ii) Content Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c-1 (f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

#### **(B) Selection of tenants**

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit) <sup>[6]</sup> shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish. That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

#### **(C) PHA disapproval of owners**

In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

- (i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;
- (ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or
- (iii) is drug-related or violent criminal activity.

#### **(7) Leases and tenancy**

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

- (A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;
- (B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—
  - (i) are in a standard form used in the locality by the dwelling unit owner; and
  - (ii) contain terms and conditions that—
    - (I) are consistent with State and local law; and
    - (II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

- (i) will occupy the unit as a primary residence; and
- (ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.; <sup>[4]</sup>

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; except that

(i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking;

(ii) Limitation.—Notwithstanding <sup>[7]</sup> clause (i) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.<sup>[2]</sup>

(iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up;

(iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an

individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate;

(v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance to <sup>[3]</sup> any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and

(vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.; <sup>[4]</sup>

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection. In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2602 of title 12) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not <sup>[8]</sup> affect any State or local law that provides longer time periods or other additional protections for tenants.

## **(8) Inspection of units by PHAs**

### **(A) In general**

Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

### **(B) Housing quality standards**

The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection; or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice <sup>[9]</sup>

### **(C) Inspection**

The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of

the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

#### **(D) Annual inspections**

Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A). The agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 1437c (h) of this title.

#### **(E) Inspection guidelines**

The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

### **(9) Vacated units**

If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

### **(10) Rent**

#### **(A) Reasonableness**

The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

#### **(B) Negotiations**

A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

#### **(C) Units exempt from local rent control**

If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.



**(D) Timely payments**

Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

**(E) Penalties**

Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

**(F) Tax credit projects**

In the case of a dwelling unit receiving tax credits pursuant to section 42 of title 26 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez <sup>[10]</sup> National Affordable Housing Act of 1990 [12 U.S.C. 12741 et seq.], for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

- (i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and
- (ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—
  - (I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and
  - (II) the payment standard established by the public housing agency for a unit of the size involved.

**(11) Leasing of units owned by PHA**

If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

**(12) Assistance for rental of manufactured housing**

**(A) In general**

A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

**(B) Rent calculation**

- (i) Charges included For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid

utilities.

**(ii) Payment standard** The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

**(iii) Monthly assistance payment** The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

### **(13) PHA project-based assistance**

#### **(A) In general**

A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated structure, that is attached to the structure, subject to the limitations and requirements of this paragraph.

#### **(B) Percentage limitation**

Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph.

#### **(C) Consistency with PHA plan and other goals**

A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

- (i)** the public housing agency plan for the agency approved under section [1437c–1](#) of this title; and
- (ii)** the goal of deconcentrating poverty and expanding housing and economic opportunities.

#### **(D) Income mixing requirement**

**(i) In general** Not more than 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term “project” means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

**(ii) Exceptions** The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services.

#### **(E) Resident choice requirement**

A housing assistance payment contract pursuant to this paragraph shall provide as follows:

- (i) Mobility** Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.
- (ii) Continued assistance** Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the requirement under the preceding sentence with respect to a low-income family, such requirement

may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

**(F) Contract term**

A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency's annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).

**(G) Extension of contract term**

A public housing agency may enter into a contract with the owner of a structure assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner. A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.

**(H) Rent calculation**

A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed 110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of title 26 and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 [42 U.S.C. 1437f] rent, subject only to paragraph (10)(A). The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

### **(I) Rent adjustments**

A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—

- (i)** the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit; and
- (ii)** the provisions of subsection (c)(2)(C) of this section shall not apply.

### **(J) Tenant selection**

A public housing agency shall select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection. Eligibility for such project-based assistance shall be subject to the provisions of section 1437n (b) of this title that apply to tenant-based assistance. The agency may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 1437c-1 of this title. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a structure by the owner or manager of a structure assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. The owner or manager of a structure assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list. Subject to its waiting list policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subsection are permitted to place their names on the separate list.

### **(K) Vacated units**

Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

- (i)** Payment for vacant units That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only:
  - (I)** if the vacancy was not the fault of the owner of the dwelling unit; and
  - (II)** the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.
- (ii)** Reduction of contract That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

**(L) Use in cooperative housing and elevator buildings**

A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

- (i) dwelling units in cooperative housing; and
- (ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

**(M) Reviews**

(i) **Subsidy layering** A subsidy layering review in accordance with section 3545 (d) of this title shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing structure, or if a subsidy layering review has been conducted by the applicable State or local agency.

(ii) **Environmental review** A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing structure, except to the extent such a review is otherwise required by law or regulation.

**(14) Inapplicability to tenant-based assistance**

Subsection (c) of this section shall not apply to tenant-based assistance under this subsection.

**(15) Homeownership option**

**(A) In general**

A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y) of this section.

**(B) Alternative administration**

A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y) of this section.

**(16) Rental vouchers for relocation of witnesses and victims of crime**

**(A) Witnesses**

Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

**(B) Victims of crime**

(i) **In general** Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18) that has been reported to an appropriate law enforcement agency.

(ii) **Notice** A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

**(17) Deed restrictions**

Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting

of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act [42 U.S.C. 3601 et seq.].

## **(18) Rental assistance for assisted living facilities**

### **(A) In general**

A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

### **(B) Rent calculation**

**(i) Charges included** For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

**(ii) Payment standard** In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility, the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

**(iii) Monthly assistance payment** The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection).

### **(C) Definition**

For the purposes of this paragraph, the term "assisted living facility" has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w (b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

## **(19) Rental vouchers for Veterans Affairs supported housing program**

### **(A) Set aside**

Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

### **(B) Amount**

The amount specified in this subparagraph is—

**(i)** for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

**(ii)** for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

**(iii)** for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

### **(C) Funding through incremental assistance**

In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

## **(20) Prohibited basis for termination of assistance**

### **(A) In general**

A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

### **(B) Construal of lease provisions**

Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal activity justifying termination of assistance to the victim or threatened victim.

### **(C) Termination on the basis of criminal activity**

Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking.

### **(D) Exceptions**

(i) Public housing authority right to terminate for criminal acts Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

(ii) Compliance with court orders Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

(iii) Public housing authority right to terminate voucher assistance for lease violations Nothing in subparagraph (A), (B), or (C) limit <sup>[11]</sup> any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to terminate.

(iv) Public housing authority right to terminate voucher assistance for imminent threat Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other

tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

(v) Preemption Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(p) Shared housing for elderly and handicapped**

In order to assist elderly families (as defined in section 1437a (b)(3) of this title who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

**(q) Administrative fees**

**(1) Fee for ongoing costs of administration**

**(A) In general**

The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

**(B) Fiscal year 1999**

(i) Calculation For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) Base amount For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under subsection (c) of this section (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

**(C) Subsequent fiscal years**

For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively



measurable data that reflect the costs of administering the program, as determined by the Secretary.

**(D) Increase**

The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

**(E) Decrease**

The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

**(2) Fee for preliminary expenses**

The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

**(A)** the costs of preliminary expenses, in the amount of \$500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under this chapter (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

**(B)** the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

**(C)** extraordinary costs approved by the Secretary.

**(3) Transfer of fees in cases of concurrent geographical jurisdiction**

In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

**(4) Applicability**

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

**(r) Portability**

**(1) In general.—**

**(A)** Any family receiving tenant-based assistance under subsection (o) of this section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

**(B)**

**(i)** Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

**(ii)** The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) of this section for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) of this section to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) **Lease violations.**— A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 [42 U.S.C. 1437f] program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

**(s) Prohibition of denial of certificates and vouchers to residents of public housing**

In selecting families for the provision of assistance under this section (including subsection (o) of this section), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

**(t) Enhanced vouchers**

**(1) In general**

Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o) of this section, except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (o) of this section for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (o) of this section and any other reasonable limit prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) of this section if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D) if the income of the assisted family declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of income paid at the time of the eligibility event for the project.

## **(2) Eligibility event**

For purposes of this subsection, the term “eligibility event” means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under this section for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515 (c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note ), section 4113 (f) of title 12, or section 1715z–1a (p) of title 12, results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

## **(3) Treatment of enhanced vouchers provided under other authority**

### **(A) In general**

Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

### **(B) Identification of other authority**

The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the “Preserving Existing Housing Investment” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105–65; 111 Stat. 1351), or the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note ), as in effect before October 20, 1999.

## **(4) Authorization of appropriations**

There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

## **(u) Assistance for residents of rental rehabilitation projects**

In the case of low-income families living in rental projects rehabilitated under section 1437o <sup>[12]</sup> of this title or section 1490m of this title before rehabilitation

- (1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;
- (2) at the discretion of each public housing agency or other agency administering the allocation of assistance or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and
- (3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

**(v) Extension of expiring contracts**

The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

**(w) Repealed. Pub. L. 106–74, title V, § 531(d)(2), Oct. 20, 1999, 113 Stat. 1116**

**(x) Family unification**

**(1) Increase in budget authority**

The budget authority available under section 1437c (c) of this title for assistance under subsection (b) of this section is authorized to be increased by \$100,000,000 on or after October 1, 1992, and by \$104,200,000 on or after October 1, 1993.

**(2) Use of funds**

The amounts made available under this subsection shall be used only in connection with tenant-based assistance under this section on behalf of

- (A) any family
  - (i) who is otherwise eligible for such assistance, and
  - (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and
- (B) for a period not to exceed 18 months, otherwise eligible youths who have attained at least 18 years of age and not more than 21 years of age and who have left foster care at age 16 or older.

**(3) Allocation**

The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

**(4) Definitions**

For purposes of this subsection:

**(A) Applicant**

The term "applicant" means a public housing agency or any other agency responsible for administering assistance under this section.

**(B) Public child welfare agency**

The term "public child welfare agency" means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

**(y) Homeownership option**

**(1) Use of assistance for homeownership**

A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

**(A)** is a first-time homeowner, or owns or is acquiring shares in a cooperative;

**(B)** demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

**(C)** except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

**(D)** participates in a homeownership and housing counseling program provided by the agency; and

**(E)** meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

**(2) Determination of amount of assistance**

**(A) Monthly expenses not exceeding payment standard**

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

**(i)** 30 percent of the monthly adjusted income of the family.

**(ii)** 10 percent of the monthly income of the family.

**(iii)** If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

**(B) Monthly expenses exceed payment standard**

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

**(3) Inspections and contract conditions**

**(A) In general**

Each contract for the purchase of a unit to be assisted under this section shall—

- (i) provide for pre-purchase inspection of the unit by an independent professional; and
- (ii) require that any cost of necessary repairs be paid by the seller.

**(B) Annual inspections not required**

The requirement under subsection (o)(8)(A)(ii) <sup>[12]</sup> of this section for annual inspections shall not apply to units assisted under this section.

**(4) Other authority of the Secretary**

The Secretary may—

- (A) limit the term of assistance for a family assisted under this subsection; and
- (B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

**(5) Inapplicability of certain provisions**

Assistance under this subsection shall not be subject to the requirements of the following provisions:

- (A) Subsection (c)(3)(B) <sup>[12]</sup> of this section.
- (B) Subsection (d)(1)(B)(i) of this section.
- (C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.
- (D) Any other provisions of this section concerning contracts between public housing agencies and owners.
- (E) Any other provisions of this chapter that are inconsistent with the provisions of this subsection.

**(6) Reversion to rental status**

**(A) FHA-insured mortgages**

If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless the family

- (i) transfers to the Secretary marketable title to the dwelling,
- (ii) moves from the dwelling within the period established or approved by the Secretary, and
- (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 1437u (d)(3) <sup>[12]</sup> of this title may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

**(B) Other mortgages**

If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

**(C) All mortgages**

A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for

occupancy of another dwelling owned by one or more members of the family.

**(7) Downpayment assistance**

**(A) Authority**

A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

**(B) Amount**

The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.

**(8) "First-time homeowner" defined**

For purposes of this subsection, the term "first-time homeowner" means—

**(A)** a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

**(B)** any other family, as the Secretary may prescribe.

**(z) Termination of section 1437f contracts and reuse of recaptured budget authority**

**(1) General authority**

The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of expiration or termination of a housing assistance payments contract only for one or more of the following:

**(A) Tenant-based assistance**

Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

**(B) Project-based assistance**

Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

**(2) Families occupying units formerly assisted under terminated contract**

Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

**(aa) Omitted**

**(bb) Transfer, reuse, and rescission of budget authority**

**(1) Transfer of budget authority**

If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the

project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

**(2) Reuse and rescission of certain recaptured budget authority**

Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under this subchapter is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

**(cc) Law enforcement and security personnel**

**(1) In general**

Notwithstanding any other provision of this chapter, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the chapter.

**(2) Rent requirements**

With respect to any assistance provided by an owner under this subsection, the Secretary may—

- (A)** permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and
- (B)** require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

**(3) Applicability**

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

**(dd) Tenant-based contract renewals**

Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

**(ee) Certification and confidentiality**

**(1) Certification**

**(A) In general**

An owner, manager, or public housing agency responding to subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within



14 business days after the individual receives a request for such certification from the owner, manager, or public housing agency.

**(B) Failure to provide certification**

If the individual does not provide the certification within 14 business days after the individual has received a request in writing for such certification for the owner, manager, or public housing agency, nothing in this subsection or in subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) of this section may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that commits violations of a lease. The owner, manager or public housing agency may extend the 14-day deadline at their discretion.

**(C) Contents**

An individual may satisfy the certification requirement of subparagraph

(A) by—

(i) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

(ii) producing a Federal, State, tribal, territorial, or local police or court record.

**(D) Limitation**

Nothing in this subsection shall be construed to require an owner, manager, or public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, or public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

**(E) Compliance not sufficient to constitute evidence of unreasonable act**

Compliance with this statute by an owner, manager or public housing agency based on the certification specified in paragraphs (1)(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by paragraph (1)(C) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manager or public housing agency, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) of this section.

**(F) Preemption**

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(2) Confidentiality**

**(A) In general**

All information provided to an owner, manager, or public housing

agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager, or public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

- (i) requested or consented to by the individual in writing;
- (ii) required for use in an eviction proceeding under subsection (c)(9), (d)(1)(B)(ii),<sup>[13]</sup> (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), or (o)(20) of this section,<sup>[14]</sup> or
- (iii) otherwise required by applicable law.

#### **(B) Notification**

Public housing agencies must provide notice to tenants assisted under this section of their rights under this subsection and subsections (c)(9), (d)(1)(B)(ii),<sup>[13]</sup> (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section, including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under this subsection and subsections (c)(9), (d)(1)(B)(ii),<sup>[13]</sup> (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section.

[1] So in original. “Notwithstanding” probably should not be capitalized.

[2] So in original. The period probably should be a semicolon.

[3] So in original. Probably should be “assistance to,”.

[4] So in original. The period probably should not appear.

[5] So in original. Probably should be section “671”.

[6] So in original. No opening parenthesis was enacted.

[7] So in original. There probably should be no heading or capitalization of “Notwithstanding”.

[8] So in original.

[9] So in original. Probably should be followed by a period.

[10] So in original. Probably should be “Cranston-Gonzalez”.

[11] So in original. Probably should be “limits”.

[12] See References in Text note below.

[13] So in original. Probably should be “(d)(1)(B)(ii),”.

[14] So in original. The comma probably should not appear.

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