H.R. CONF. REP. 101-922, H.R. Conf. Rep. No. 922, 101ST Cong., 2ND Sess. 1990, 1990 WL 212064 (Leg.Hist.)
P.L. 101-625, CRANSTON-GONZALEZ **NATIONALAFFORDABLEHOUSINGACT**

HOUSE CONFERENCE REPORT NO. 101–922

October 22, 1990
[To accompany S. 566]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 566) to authorize a new Housing Opportunities Partnerships program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.–This Act may be cited as the "Cranston-Gonzalez **NationalAffordableHousingAct**".

(b) Table of Contents.–

TITLE II–INVESTMENT IN AFFORDABLE HOUSING

Subtitle A–HOME Investment Partnerships

Subtitle B–Community Housing Partnership

TITLE I–GENERAL PROVISIONS AND POLICIES

SEC.101.THE NATIONAL HOUSING GOAL.

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

SEC.102.OBJECTIVE OF NATIONAL HOUSING POLICY.

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able–

(1) to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

SEC. 103. PURPOSES OF THE CRANSTON-GONZALEZ **NATIONALAFFORDABLEHOUSINGACT**.

The purposes of this Act are–

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and

nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

SEC. 104. DEFINITIONS.

As used in this title and in title II:

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 216(2) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government that has been so designated in accordance with section 216 of this Act.

(5) The term "nonprofit organization" means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that–

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization as defined in paragraph (5), that–

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association,

the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "housing" includes manufactured housing and manufactured housing lots.

(9) The term "very low-income families" means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 3 of the United States Housing Act of 1937.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "displaced homemaker" means an individual who–

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term "first-time homebuyer" means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under title II, except that–

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(15) The term "single parent" means an individual who–

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(16) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

(18) The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of

1937 (42 U.S.C. 1437a(b)).

(19) The term "metropolitan city" has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)).

(20) The term "urban county" has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)).

(21) The term "certification" means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(22) The term "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

SEC. 105. STATE AND LOCAL HOUSING STRATEGIES.

(a) In General.–The Secretary shall provide assistance directly to a jurisdiction only if–

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under title II of this Act and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) Contents.–A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall–

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for very low-income, low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under title II of this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act, during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(9) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(10) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(11) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(12) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(13) include a certification that the jurisdiction will affirmatively further fair housing;

(14) include a certification that the jurisdiction is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the jurisdiction); and

(15) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 215 using funds made available.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under title II of this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) Approval.–

(1) In general.–The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may extend the review period to not longer than 90 days.

(2) Actions in case of disapproval.–If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) Amendments and resubmission.–The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) Coordination of State and Local Housing Strategies.–The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) Consultation With Social Service Agencies.–When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(f) Barrier Removal.–Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

SEC. 106. CERTIFICATION.

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under title II of this Act, assistance under the Housing and Community Development Act of 1974, or assistance under the Stewart B. McKinney Homeless Assistance Act, to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

SEC. 107. CITIZEN PARTICIPATION.

(a) In General.–Before submitting a housing strategy under this section, a jurisdiction shall–

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the

proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) Notice and Comment.–Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) Consideration of Comments.–A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) Regulations.–The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

SEC. 108. COMPLIANCE.

(a) Performance Reports.–

(1) In general.–Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(15) of this Act, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) Submission.–The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) Failure to report.–If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under title II of this Act or the other programs referred to in section 106 may be–

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) Performance Review by Secretary.–

(1) In general.–The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 105 are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's–

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual

agreements and the requirements of law.

(2) Report by the secretary.–The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) Review by Courts.–The adequacy of information submitted under section 105(b)(4) shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

SEC. 109. ENERGY EFFICIENCY STANDARDS.

The Secretary of Housing and Urban Development shall, not later than one year after the date of enactment of this Act, promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.

SEC. 110. CAPACITY STUDY.

(a) In General.–The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities, and to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program.

(b) Report.–Not later than 60 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

SEC. 111. PROTECTION OF STATE AND LOCAL AUTHORITY.

Notwithstanding any other provision of this title or title II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

TITLE II–INVESTMENT IN AFFORDABLE HOUSING

SEC. 201. SHORT TITLE.

This title may be cited as the "HOME Investment Partnerships Act".

SEC. 202. FINDINGS.

The Congress finds that–

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to–

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

SEC. 203. PURPOSES.

The purposes of this title are–

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed–

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become

responsible homeowners and tenants.

SEC. 204. COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.

The Secretary shall make assistance under this title available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this title.

SEC. 205. AUTHORIZATION.

There are authorized to be appropriated to carry out this title $1,000,000,000 for fiscal year 1991, and $2,086,000,000 for fiscal year 1992, of which–

(1) not more than $14,000,000 for fiscal year 1991, and $14,000,000 for fiscal year 1992, shall be for community housing partnership activities authorized under section 233; and

(2) not more than $11,000,000 for fiscal year 1991, and $11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under subtitle C.

SEC. 206. NOTICE.

The Secretary shall issue regulations to implement the provisions of this title after notice and an opportunity for comment pursuant to section 553 of title 5, United States Code. Such regulations shall become effective not later than 180 days after the date of enactment of this Act.

Subtitle A–HOME Investment Partnerships

SEC. 211. AUTHORITY.

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this subtitle.

SEC. 212. ELIGIBLE USES OF INVESTMENT.

(a) Housing Uses.–

(1) In general.–Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, and to provide tenant-based rental assistance.

(2) Preference to rehabilitation.–A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that–

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing; and

(B) the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under paragraph (3) of this subsection or under section 223(2).

(3) Conditions for new construction.–

(A) In general.–Funds made available under this subtitle may be used (at the discretion of a participating jurisdiction) for new construction of housing only if the housing is to serve a local market area that, in the determination of the Secretary has–

(i) an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and
(ii) a severe shortage of substandard residential structures in the jurisdiction that are suitable for rehabilitation as affordable rental housing.

(B) Establishment of criteria.–The Secretary shall publish–

(i) objective criteria for determining whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A), and
(ii) a list of jurisdictions that in the determination of the Secretary meet those criteria.

The Secretary shall give reasonable opportunity for jurisdictions not designated on the published list to demonstrate, on the basis of additional information, that they meet the criteria. Such criteria shall permit new construction by not fewer than 30 percent of the jurisdictions receiving an allocation under section 216(1). Such criteria shall include objective data on housing market conditions such as low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) Neighborhood revitalization.–Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that–

(i) the program of construction is needed to facilitate a neighborhood revitalization program that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families in an area designated by the jurisdiction;
(ii) the housing is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;
(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and
(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

(D) Applicability.–Clause (iii) of subparagraph (C) shall not apply if the jurisdiction certifies that–

(i) the housing is to be located in a severely distressed area with large tracts of vacant land and abandoned buildings,
(ii) the housing is to be located in an area with an inadequate supply of existing housing that can economically be rehabilitated to meet identified housing needs, or
(iii) the new construction is required to accomplish the neighborhood revitalization program.

(E) Special needs housing.–Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of–

(i) affordable housing for large families;
(ii) affordable housing for persons with disabilities;
(iii) single room occupancy housing; and
(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable, public housing units in excess

of normal vacancies resulting from turnovers that could meet the specified need.

(4) Tenant-based rental assistance.–

(A) In general.–A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if–

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and
(ii) the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences.

(B) Fair share not affected.–A jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this title.

(C) 24-month contracts.–Rental assistance contracts made available with assistance under this title shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) Use of section 8 assistance.–In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this title shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this title. A rental assistance program under this title shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(b) Investments.–Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this title. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) Prohibited Uses.–Funds made available under this subtitle may not be used to–

(1) defray any administrative cost of a participating jurisdiction,

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 14 of the Housing Act of 1937, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(d) Cost Limits.–

(1) In general.–The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) Criteria.–In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to–

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions;

(C) facilitate mixed-income housing; and

(D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) Consultation.–In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) Certification of Compliance.–The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

SEC. 213. DEVELOPMENT OF MODEL PROGRAMS.

(a) In General.–The Secretary shall–

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this title.

(b) Adoption of Programs.–Except as provided in section 223(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) Subtitle D Programs.–The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in subtitle D.

SEC. 214. INCOME TARGETING.

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that–

(1) with respect to rental assistance and rental units–

(A) not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, and

(B) the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 215.

SEC. 215. QUALIFICATION AS AFFORDABLE HOUSING.

(a) Rental Housing.–

(1) Qualification.–Housing that is for rental shall qualify as affordable housing under this title only if the housing–

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and

the purposes of this Act; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) Adjustment of qualifying rent.–The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) Increases in tenant income.–Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent not less than 30 percent of the family's adjusted monthly income, as recertified annually.

(4) Mixed-income project.–Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) Mixed-use project.–Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(b) Homeownership.–Housing that is for homeownership shall qualify as affordable housing under this title only if the housing–

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;

(3) is made available for initial purchase only to first-time homebuyers;

(4) is made available for subsequent purchase only–

(A) to persons who meet the qualifications specified under paragraph (2), and

(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate–

(i) to provide the owner with a fair return on investment, including any improvements, and
(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and
(5) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

SEC. 216. PARTICIPATION BY STATES AND LOCAL GOVERNMENTS.

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

(1) Allocation.–Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act, not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriations Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 217 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount.

If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) Consortia.–A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this title if the Secretary determines that the consortium–

(A) has sufficient authority and administrative capability to carry out the purposes of this title on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) Eligibility.–(A) A jurisdiction receiving a formula allocation under section 217 shall be eligible to become a participating jurisdiction if its formula allocation is $750,000 or greater, or if the Secretary finds that–

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 217(a)(1) and the amount made available to the jurisdiction under subparagraph (A)(ii).

(4) Notification.–If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 217(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(5) Submission of strategy.–Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(6) Reallocation.–If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) State.–If a State has failed to meet the requirements, the Secretary shall–

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation, and
(ii) reallocate the remainder by formula in accordance with section 217(b).

(B) Local.–If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) Direct reallocation.–If a unit of general local government has failed to meet the requirements and is located in a State

that is not a participating jurisdiction, the Secretary shall–

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and
(ii) reallocate the remainder in accordance with section 217(b).

(D) Certain jurisdictions deemed to be participating jurisdictions.–If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) Designation.–The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(8) Continuous designation.–Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) Revocation.–The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if–

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below $750,000 for 3 consecutive years, below $625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $500,000 or more in any 1 year.

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 218 shall be reallocated in accordance with paragraph (6) of this section.

SEC. 217. ALLOCATION OF RESOURCES.

(a) In General.–

(1) States and units of general local government.–After reserving amounts for Indian tribes as required by paragraph (2) of this subsection, the Secretary shall allocate funds approved in an appropriations Act to carry out this title by formula as provided in subsection (b). Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

(2) Indian allocation.–For each fiscal year, of the amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(b) Formula Allocation.–

(1) In general.–

(A) Rental housing production formula.–(i) Of the funds made available under subsection (a)(1), the Secretary shall designate 10 percent in fiscal year 1991, and 15 percent in fiscal year 1992, for use only to produce affordable rental housing through new construction or substantial rehabilitation. Such funds shall be initially allocated by formula among jurisdictions that, according to the determination of the Secretary under section 212(a)(3)(B), have a housing supply sufficiently inadequate to permit new construction. The allocation among States shall reflect each State's share of the need

in areas that meet the criteria established by the Secretary under section 212(a)(3)(B). Such formula shall reflect each eligible jurisdiction's share of the total need among all eligible jurisdictions for rental housing production as identified by objective measures of inadequate housing supply, including low vacancy rates, low turnover of units with rents below fair market rents, a high proportion of substandard housing, and other measures that the Secretary determines are appropriate under section 212(a)(3)(B). In no case may a jurisdiction's total allocation under this subparagraph and subparagraph (B) exceed the amount the jurisdiction would have received if its allocation were made under subparagraph (B) alone.

(ii) Any amounts made available under clause (i) that are not committed for new construction or substantial rehabilitation within a period ending 12 months after they are deposited in a jurisdiction's HOME Investment Trust Fund shall remain available only for such purposes during a subsequent 12-month period, after which they shall be available for other eligible uses in accordance with section 212 for an additional period of not to exceed 12 months.

(B) Basic formula.–The Secretary shall establish in regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 212 without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(C) Source of data.–The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(D) Use of basic formula.–Except as provided in subparagraph (A), the basic formula established under subparagraph (B) shall be used for all formula allocations and reallocations provided for in this subtitle.

(E) Weights.–When allocation is made among States, the Secretary shall apply the formulas in subparagraph (B) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 216(1).

(F) Adjustments.–In developing the basic formula in subparagraph (B), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this subtitle to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this subtitle that appropriately reflects the housing need in each region of the Nation. If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction's allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations were made according to the formula under subparagraph (B) alone.

(G) Consultation.–The Secretary shall develop the formulas in subparagraphs (A) and (B) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

(2) Minimum state allocation.–

(A) In general.–If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) Increased minimum allocation.–If no unit of general local government within a State receives an allocation under

paragraph (3), the State's allocation shall be increased by $500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below $500,000.

(3) Minimum local allocation.–The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 216(2) so that, when all such funds are initially allocated by formula, only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations.

(c) Criteria for Direct Reallocation.–The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this title. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account–

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this title through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that–

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 214, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 220; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that–

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that

are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) Reallocations.–

(1) In general.–The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 216.

(2) Commitments.–The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this title, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) Limitation.–Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

SEC. 218. HOME INVESTMENT TRUST FUNDS.

(a) Establishment.–The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 219(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

(b) Line of Credit.–The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include–

(1) funds allocated or reallocated to the participating jurisdiction under section 217, and

(2) any payment or repayment made pursuant to section 219.

(c) Reductions.–A participating jurisdiction's line of credit shall be reduced by–

(1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 224.

(d) Certification.–A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) Investment Within 15 Days.–The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) No Interest or Fees.–The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) Expiration of Right To Draw Funds.–Except as provided in section 217(b)(1)(A)(ii), if any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 217(d).

(h) Administrative Provision.–The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

SEC. 219. REPAYMENT OF INVESTMENT.

(a) In General.–Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 217(d).

(b) Assurance of Repayment.–Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 217(d).

(c) Availability.–The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated under section 217. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this title. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

SEC. 220. MATCHING REQUIREMENTS.

(a) Contribution.–Each participating jurisdiction shall make contributions to affordable housing assisted under this title that total, throughout a fiscal year, not less than–

(1) 25 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).

(b) Recognition.–

(1) In general.–A contribution shall be recognized for purposes of subsection (a) only if it–

(A) is made with respect to housing that qualifies as affordable housing under section 215; or

(B) is made with respect to any portion of a project not less th the unercent of the units of which qualify as affordable housing under section 215.

(2) Administrative expenses.–Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this title.

(c) Form.–Such contributions may be in the form of–

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, which may include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(3) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this title;

(4) the value of land or other real property as appraised according to procedures acceptable to the Secretary; and

(5) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title.

(d) Reduction of Requirement.–If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) is necessary to permit the jurisdiction to carry out the purposes of this title, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year.

SEC. 221. PRIVATE-PUBLIC PARTNERSHIP.

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

SEC. 222. DISTRIBUTION OF ASSISTANCE.

(a) Local.–Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) State.–Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

SEC. 223. PENALTIES FOR MISUSE OF FUNDS.

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this title, and the Secretary may–

(1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 213; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

SEC. 224. LIMITATION ON JURISDICTIONS UNDER COURT ORDER.

(a) In General.–Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this subtitle are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which–

(1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

(2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

(b) Remedial Use of Funds Permitted.–In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

SEC. 225. TENANT AND PARTICIPANT PROTECTIONS.

(a) Lease.–The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(b) Termination of Tenancy.–An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title 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. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(c) Maintenance and Replacement.–The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) Tenant Selection.–The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that–

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

SEC. 226. MONITORING OF COMPLIANCE.

(a) Enforceable Agreements.–Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) Periodic Monitoring.–Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

(c) Special Procedures for Certain Projects.–In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

Subtitle B–Community Housing Partnership

SEC. 231. SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) In General.–For a period of 18 months after funds under subtitle A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) Recapture and Reuse.–If any funds reserved under subsection (a) remain uninvested for a period of 18 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 233, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

(c) Direct Reallocation Criteria.–Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 217(c).

SEC. 232. PROJECT-SPECIFIC ASSISTANCE TO COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) In General.–Amounts reserved under section 231 may be used for activities eligible under section 212 and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

(b) Project-Specific Technical Assistance and Site Control Loans.–

(1) In general.–Amounts reserved under the previous section may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

(2) Allowable expenses.–A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

(3) Repayment.–A community housing development organization that receives a loan under this subsection shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(c) Project-Specific Seed Money Loans.–

(1) In general.–Amounts reserved under the previous section may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

(2) Eligible sponsors.–A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) Repayment.–A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

SEC. 233. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT.

(a) In General.–The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this subtitle–

(1) to facilitate the education of low-income homeowners and tenants; and

(2) to promote the ability of community housing development organizations to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this title.

(b) Eligible Activities.–Assistance under this section may be used only for the following eligible activities:

(1) Organizational support.–Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

(2) Housing education.–Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this title.

(3) Program-wide support of nonprofit development and management.–Technical assistance, training, and continuing

support may be made available to eligible community housing development organizations for managing and conserving properties developed under this title.

(4) Benevolent loan funds.–Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) Community development banks and credit unions.–Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(c) Delivery of Assistance.–The Secretary shall provide this assistance only through contract–

(1) with a nonprofit intermediary organization that, in the determination of the Secretary–

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing; and

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's housing strategy.

(d) Limitations.–Contracts under this section with any one contractor for a fiscal year may not–

(1) exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) Single-State Contractors.–Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State.

SEC. 234. OTHER REQUIREMENTS.

(a) Tenant Participation Plan.–A community housing development organization that receives assistance under this subtitle shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

(b) Limitation on Assistance.–A community housing development organization may not receive assistance under this title for any fiscal year in an amount that, together with other Federal assistance, provides more than 50 percent of the organization's total operating budget in the fiscal year.

(c) Adjustments of Other Assistance.–The Secretary shall take account of assistance provided to a project under this subtitle when adjusting other assistance to be provided to the project as required by section 102(d) of the Department of Housing and Urban Development Reform Act of 1989.

Subtitle C–Other Support for State and Local Housing Strategies

SEC. 241. AUTHORITY.

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

SEC. 242. PRIORITIES FOR CAPACITY DEVELOPMENT.

To carry out section 241, the Secretary shall provide assistance under this subtitle to–

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing; and

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects.

SEC. 243. CONDITIONS OF CONTRACTS.

(a) Eligible Organizations.–The Secretary shall carry out this subtitle insofar as is practicable through contract with–

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this subtitle.

(b) Contract Terms.–Contracts under this subtitle shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds appropriated under this subtitle in that fiscal year.

SEC. 244. RESEARCH IN HOUSING AFFORDABILITY.

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 243.

SEC. 245. REACH: ASSET RECYCLING INFORMATION DISSEMINATION.

(a) In General.–The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this title.

(b) Eligible Properties.–An eligible property under this section shall–

(1) be an unoccupied single-family or multifamily dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(3)(ii)) for elevator-type structures.

Subtitle D–Specified Model Programs

SEC. 251. GENERAL AUTHORITY.

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 213 shall be model programs specified in this subtitle. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

SEC. 252. RENTAL HOUSING PRODUCTION.

(a) Repayable Advances.–

(1) In general.–The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(2) Maximum amount of advance.–An advance under this model program shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating

jurisdiction.

(3) Terms of repayment.–

(A) Interest payments.–

(i) In general.–Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(ii) Exception.–Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

(B) Additional interest payments.–Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction's HOME Investment Trust Fund as additional interest.

(C) Principal and unpaid interest.–The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 219(b).

(b) Selection Guidelines.–

(1) In general.–The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(2) Specific requirements.–The selection guidelines may include–

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 214;

(E) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

(c) Guidelines.–The Secretary shall publish guidelines for the model program under this section not later than 180 days after enactment of this Act.

SEC. 253. RENTAL REHABILITATION.

(a) In General.–The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) Amount of Subsidy.–The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) Additional Restrictions.–The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

SEC. 254. REHABILITATION LOANS.

(a) In General.–The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) Condition of Loans.–The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) Additional Restrictions.–Guidelines for the model program may require that the property–

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

SEC. 255. SWEAT EQUITY MODEL PROGRAM.

(a) In General.–The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) Rehabilitation of Properties.–The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) Homeownership Opportunities Through Sweat Equity.–

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

(d) Rental Opportunities Through Sweat Equity.–(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) Definition.–The term "self-help housing" means the same as in section 523 of the Housing Act of 1949.

(f) Additional Restrictions.–The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

SEC. 256. HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.

(a) In General.–The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

(b) Eligible Recipients.–Home repair services shall be provided to homeowners who–

(1) own and reside in the dwellings for which services are provided;

(2) are older or disabled; and

(3) are members of low-income families.

(c) Permitted Restrictions.–Guidelines for the model program shall require that–

(1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;

(2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by noneconomic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;

(3) any fees charged be based on the income of the individual receiving the home repair services.

SEC. 257. LOW-INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAMS.

(a) In General.–The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

(b) Activities.–The model program shall provide for–

(1) identification of housing that is–

(A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);

(B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and

(3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this title.

SEC. 258. SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) In General.–The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) Homeownership Counseling.–The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include–

(1) counseling before and after purchase of the property;

(2) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(3) providing homebuyers with financial management assistance;

(4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

(c) Eligibility Requirements.–Deferred payment loans secured by second mortgages may be provided under the model program under this section if–

(1) the homebuyer assisted is a first-time homebuyer;

(2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and

(3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(d) Payment terms.

(1) Period of deferral.–The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(2) Interest rate.–The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

(3) Repayment period.–A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

(e) Security.–A deferred payment loan assisted with amount provided under a grant under this section shall be secured by a lien on the property involved, which lien shall be subordinate to the first mortgage on the property.

SEC. 259. REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.

(a) In General.–The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

(b) Target.–The program shall target vacant properties for rehabilitation by nonprofit organizations.

Subtitle E–Mortgage Credit Enhancement

SEC. 271. REPORT ON CREDIT ENHANCEMENT.

(a) In General.–The Comptroller General of the United States shall carry out a study of ways in which financing for affordable housing may be made available to assist in the most efficient implementation of comprehensive housing affordability strategies of participating jurisdictions. In conducting the study, the Comptroller General shall draw upon the expertise of such representatives of State and local government, State and local housing finance agencies, agencies of the United States, government-sponsored mortgage finance corporations, for-profit and nonprofit housing developers, private financial institutions, and sources of long-term mortgage investment, as the Comptroller General determines to be appropriate.

(b) Report.–Not later than one year after the enactment of this Act, the Comptroller General shall submit to the Congress and the Secretary a report containing any recommendations for legislative or administrative actions needed to improve the availability of mortgage finance for affordable housing. The report shall include, but need not be limited to, an assessment of–

(1) the need for the Department of Housing and Urban Development or other agencies of the United States to provide partial credit enhancement to make financing for affordable housing available efficiently and at the lowest possible cost; and

(2) alternative ways in which–

(A) the Department could provide any needed credit enhancement on a one-stop basis for participating jurisdictions, in coordination with other forms of assistance under this subtitle;

(B) the Department or other agencies of the Federal Government could assist government-sponsored mortgage finance corporations in the financing of mortgages on affordable housing through the development of mortgage-backed securities that are more standardized and readily traded in the capital markets;

(C) the capacities of existing agencies of the United States could be used to provide mortgage finance more efficiently for affordable housing through government-sponsored mortgage finance corporations; and

(D) the interests of the Federal Government could be protected and any risks of loss could be minimized through requirements for fees, mortgage insurance, risk-sharing, secure collateral, and guarantees by other parties, and through standards relating to minimum capital and prior experience with underwriting, origination and servicing.

Subtitle F–General Provisions

SEC. 281. EQUAL OPPORTUNITY.

(a) Solicitation of Contracts.–Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real

estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) Report to Congress.–Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 217, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

SEC. 282. NONDISCRIMINATION.

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

SEC. 283. ANNUAL AUDITS AND ACCOUNTABILITY.

(a) Independent Audits.–The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the HOME Investment Partnerships program for each fiscal year. Funds available for departmental administration may be used to provide for such audits. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States (hereinafter referred to as the "Comptroller General"), and shall be consistent with the requirements of sections 9105 and 9106 of title 31, United States Code. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, United States Code, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31, United States Code.

(b) Audits by the Comptroller General.–

(1) Audits of the home investment partnerships program.–The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(2) Audits of recipients.–The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 284. UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.

(a) Uniform Requirements.–The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) Report to the Congress.–Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided under this section. Such report shall include a description of actions taken by each participating jurisdiction pursuant to section 281(a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such section.

SEC. 285. CITIZEN PARTICIPATION.

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 107 of this Act.

SEC. 286. LABOR.

(a) In General.–Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Waiver.–Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

SEC. 287. INTERSTATE AGREEMENTS.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. 288. ENVIRONMENTAL REVIEW.

(a) In General.–In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to participating jurisdictions under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(b) Procedure.–The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the participating jurisdiction has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) Certification.–A certification under the procedures authorized by this section shall–

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the participating jurisdiction and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) Assistance to a State.–In the case of assistance to States, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

SEC. 289. TERMINATION OF EXISTING HOUSING PROGRAMS.

(a) In General.–Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under–

(1) section 17 of the United States Housing Act of 1937;

(2) section 312 of the Housing Act of 1964;

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937, except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; and

(5) section 810 of the Housing and Community Development Act of 1974.

(b) Repeals.–

(1) In general.–Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) are repealed.

(2) No effect on sro program.–The provision of law referred to in subsection (a)(4) shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act.

(c) Disposition of Repayments.–Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

TITLE III–HOMEOWNERSHIP

Subtitle A–National Homeownership Trust Demonstration

SEC. 301. SHORT TITLE.

This subtitle may be cited as the “National Homeownership Trust Act”.

SEC. 302. NATIONAL HOMEOWNERSHIP TRUST.

(a) Establishment.–There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) Board of Directors.–The Trust shall be governed by a Board of Directors, which shall be composed of–

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) Powers of Trust.–The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) Travel and Per Diem.–Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) Director and Staff.–

(1) Director.–The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) Staff.–Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

SEC. 303. ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) In General.–The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) Interest rate buydowns.–Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) Downpayment assistance.–Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(b) Eligibility Requirements.–Assistance payments under this subtitle may be made only to homebuyers and for mortgages

meeting the following requirements:

(1) First-time homebuyer.–The homebuyer is an individual who–

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A).

(2) Maximum income of homebuyer.–The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed–

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act.

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) Certification.–The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) Principal residence.–The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) Maximum mortgage amount.–The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(6) Maximum interest rate.–The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) Responsible mortgagee.–The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) Minimum downpayment.–For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) Terms of Assistance.–

(1) Security.–Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) Repayment upon sale.–Assistance payments under this subtitle shall be repayable from the net proceeds of the sale,

without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) Repayment upon increased income.–If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) Repayment if property ceases to be principal residence.–If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) Available assistance.–The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) Allocation Formula.–Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

SEC. 304. NATIONAL HOMEOWNERSHIP TRUST FUND.

(a) Establishment.–There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) Assets.–The Fund shall consist of–

(1) any amount approved in appropriation Acts under section 308 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) Use of Amounts.–The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) Investment of Excess Amounts.–Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) Demonstration Programs.–Using not more than $20,000,000 of any amounts appropriated for the Fund under section 308 in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed $4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed $10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed $1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of

technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

SEC. 305. DEFINITIONS.

For purposes of this subtitle:

(1) Board of directors.–The term "Board of Directors" or "Board" means the Board of Directors of the National Homeownership Trust under section 302(b).

(2) Displaced homemaker.–The term "displaced homemaker" means an individual who–

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) Fund.–The term "Fund" means the National Homeownership Trust Fund established in section 304.

(4) Single parent.–The term "single parent" means an individual who–

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) State.–The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) Trust.–The term "Trust" means the National Homeownership Trust established in section 302.

SEC. 306. REGULATIONS.

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

SEC. 307. REPORT.

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 310, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $250,000,000 for fiscal year 1991 and $521,500,000 for fiscal year 1992. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 309.

SEC. 309. TRANSITION.

(a) Authority of Secretary.–Upon the termination of the Trust as provided in section 310, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) Applicability of Trust Provisions.–Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) Certification of Fund to Treasury.–Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

SEC. 310. TERMINATION.

The Trust shall terminate on September 30, 1993.

Subtitle B–FHA and Secondary Mortgage Market

SEC. 321. LIMITATION ON FHA INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f–9(b)) is amended to read as follows:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $76,791,000,000 during fiscal year 1991 and $79,818,000,000 during fiscal year 1992.".

SEC. 322. APPRAISAL SERVICES.

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following new paragraphs:

"(3) Direct Endorsement Program.–

"(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct endorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

"(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to section 202(e) of the National Housing Act.

"(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

"(4) Fee Panel Appraisers.–

"(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation,

partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers.

"(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this title, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.".

SEC. 323. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31, 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 324. MORTGAGOR EQUITY.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 325. MORTGAGE INSURANCE PREMIUMS.

(a) Premiums.–Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended–

(1) by inserting "(1)" after "(c)";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling and executed on or after October 1, 1994, that is an obligation of the Mutual Mortgage Insurance Fund, shall be subject to the following requirements:

"(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount equal to 2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph.

"(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

"(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for

insurance), for the first 11 years of the mortgage term.

"(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).".

(b) Transition Provisions.–Notwithstanding section 203(c) of the National Housing Act (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) 1991 and 1992.–For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

(A) Up-front.–At the time of insurance, a single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(B) Annual.–In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is–

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;
(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and
(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) 1993 and 1994.–For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

(A) Up-front.–At the time of insurance, a single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(B) Annual.–In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A) that is–

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;
(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and
(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

(3) Refunds.–With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

(c) Regulations.–The Secretary shall issue regulations to carry out this section and the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 326. LIMITATION ON SECONDARY RESIDENCES.

(a) Limitation on Secondary Residences.–Section 203(g)(1) of the National Housing Act (12 U.S.C. 1709(g)(1)) is amended by inserting after the period at the end the following new sentence: "In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.".

(b) Applicability.–The amendments made by subsection (a) shall apply only with respect to–

(1) mortgages insured–

(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) Transition Provisions.–Any mortgage insurance provided under title II of the National Housing Act before the expiration of the 60-day period beginning on the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act, as such provisions existed before the date of the enactment of this Act.

SEC. 327. MORTGAGE COUNSELING FOR DELINQUENT MORTGAGORS.

Section 203(r) of the National Housing Act (12 U.S.C. 1709(r)) is amended–

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section 203 (12 U.S.C. 1709), using the Fund to pay for such counseling.".

SEC. 328. DELEGATION OF PROCESSING.

(a) Authority.–Not later than the expiration of the 60-day period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act that delegates processing functions to selected approved mortgagees. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

(b) Full Insurance Program.–Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

SEC. 329. DISCLOSURE REGARDING INTEREST DUE UPON MORTGAGE PREPAYMENT.

Section 203 of the National Housing Act (12 U.S.C. 1709), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(s)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

"(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).".

SEC. 330. ACCOUNTABILITY OF MORTGAGE LENDERS.

(a) Limitation on Tiered Pricing Practices.–Section 203 of the National Housing Act (12 U.S.C. 1709), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(t)(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 539, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

"(2) For purposes of this subsection–

"(A) the term 'area' shall have the meaning given the term under subsection (b)(2);

"(B) the term 'mortgage charges' includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

"(C) the term 'mortgage charge rate' means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.".

(b) Sanctions of Mortgagees.–Title V of the National Housing Act (12 U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"EXAMINATIONS AND SANCTIONS FOR CERTAIN VIOLATIONS

"Sec. 539. (a) Examinations and Sanctions.–

"(1) In connection with any examination of a mortgagee approved by the Secretary pursuant to this Act, the Secretary shall assess the performance of the mortgagee in meeting the requirements of sections 203(t), 223(a)(7)(B), and 535. Where the Secretary determines that a mortgagee is not in compliance with these requirements, the Secretary shall refer the matter to the Mortgagee Review Board for investigation and appropriate action.

"(2) Not later than 180 days after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall by notice establish a procedure under which (A) any person may file a request that the Secretary determine whether a mortgagee is in compliance with sections 203(t), 223(a)(7)(B), and 535, (B) the Secretary shall inform the person of the disposition of the request, and (C) the Secretary shall publish in the Federal Register the disposition of any case referred by the Secretary to the Mortgagee Review Board. Such procedures shall be established by regulation under

section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

"(3) The Secretary shall submit to Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to paragraph (2) and any action taken pursuant to such requests."

"(b) Monitoring and Review.–The Secretary shall continually monitor and undertake a thorough review of the implementation of this section to assess the impact of the section on the lending practices of mortgagees and the availability of mortgages insured under this Act. The Secretary shall monitor the availability of credit, the number and type of lenders participating in the program, whether there is any change in the composition or practices of such lenders and any other factors the Secretary considers appropriate. The Secretary shall submit to the Congress findings detailing the results of such monitoring and review not later than 18 months after the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.".

SEC. 331. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 332. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection and maintains such ratio thereafter, subject to paragraph (2).

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(C) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be

conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c) or section 325(b) of the Cranston-Gonzalez **NationalAffordableHousingAct**. Upon determining that a premium change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

"(2) The operational goals referred to in paragraph (1) shall be–

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit;

"(C) minimizing the risk to the Fund and to homeowners from homeowner default; and

"(D) avoiding adverse selection.".

SEC. 333. INSURANCE OF MORTGAGES ON PROPERTY IN VIRGIN ISLANDS.

Section 214 of the National Housing Act (12 U.S.C. 1715d) is amended–

(1) in the first sentence, by striking "Alaska, Guam, or Hawaii," and inserting "Alaska, Guam, Hawaii, or the Virgin Islands,";

(2) by striking "Alaska or in Guam or Hawaii" each place it appears and inserting "Alaska, Guam, Hawaii, or the Virgin Islands";

(3) by inserting ", the Virgin Islands," after "Government of Guam" each place it appears; and

(4) by striking the section heading and inserting the following:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, HAWAII, AND THE VIRGIN ISLANDS".

SEC. 334. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) Limitation on Insurance Authority and Maximum Amount Insured.–

(1) Number of mortgages insured.–Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

(2) Termination date.–The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) Types of Loans.–Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended–

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount–

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility.".

(c) Limitation on Liability of Mortgagor.–Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z–20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

(d) Disclosures by Mortgagee Regarding Liability of Mortgagor.–Section 255(e) of the National Housing Act (12 U.S.C. 1715z–20(e)) is amended–

(1) in paragraph (2)–

(A) by inserting after "statement" the following: "informing the homeowner that the liability of the homeowner under the mortgage is limited and"; and

(B) by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include–

"(A) the cost for a short-term mortgage; and

"(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.".

SEC. 335. INFORMATION REGARDING EARLY DEFAULTS ON FHA-INSURED LOANS.

(a) In General.–The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 539 (as added by this Act) the following new section:

"INFORMATION REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

"Sec. 540. (a) In General.–The Secretary of Housing and Urban Development shall collect and maintain information regarding early defaults on mortgages as provided under this section. The Secretary shall make such information available for public inspection upon request. Information shall be collected quarterly with respect to each applicable collection period (as such term is defined in subsection (c)) and shall be available for inspection not more than 30 days after the conclusion of the calendar quarter relating to each such period. Information shall first be made available under this section for the applicable collection period relating to the first calendar quarter ending more than 180 days after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(b) Contents.–

"(1) Mortgage lender analysis.–Information collected under this section shall include, for each lender originating mortgages during the applicable collection period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

"(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable collection period.

"(B) The total number of such mortgages originated by such lender during the applicable collection period in each designated census tract and the number of mortgages originated each year in each designated census tract.

"(C) The total number of defaults and foreclosures on such mortgages during the applicable collection period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

"(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable collection period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable collection period.

"(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable collection period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable collection period.

"(2) Other information.–Information collected under this section shall also include the following:

"(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable collection period.

"(B) For each designated census tract, the total number of mortgages originated during the applicable collection period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

"(c) Annual Reports.–The Secretary shall submit to the Congress annually a report containing the information collected and maintained under subsection (b) for the relevant year.

"(d) Definitions.–For purposes of this section:

"(1) Applicable collection period.–The term 'applicable collection period' means the 5-year period ending on the last day of the calendar quarter for which information under this section is collected.

"(2) Designated census tract.–The term 'designated census tract' means a census tract located within a metropolitan statistical area, as defined pursuant to regulations issued by the Secretary of Commerce.".

(b) Availability of Information During Transition.–During the period beginning on the date of the enactment of this Act and ending on the date of the initial availability of information under section 540 of the National Housing Act (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.

SEC. 336. AUCTION OF MULTIFAMILY MORTGAGES.

Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715*l*(g)(4)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as 'participation certificates'). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

"(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

"(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

"(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

"(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

"(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

"(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of–

"(I) the maturity date of the loan;
"(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or
"(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

"(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

"(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

"(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment of this subparagraph and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of the enactment of this subparagraph.

"(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

"(viii) This subparagraph shall not apply after September 30, 1995. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.".

SEC. 337. DISAPPROVAL OF REGULATIONS REGARDING PROPERTY DISPOSITION.

Section 291.1(c)(2) and section 291.100(b) (1) and (2) of the rule of the Department of Housing and Urban Development entitled "Disposition of HUD-Acquired Single Family Property" and published in the Federal Register of January 11, 1990 (55 Fed. Reg. 1161 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule containing or based on such provision and may not otherwise implement such provision of such rule.

SEC. 338. REPORT REGARDING FORECLOSED PROPERTIES.

(a) In General.–Before the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report containing a description of the strategy and action plan developed to assist in the disposition of foreclosed properties in the stock of the Department of Housing and Urban Development, paying particular attention to any properties that have been in the Department inventory for more than 12 months. The Secretary shall solicit recommendations from State and local governments, nonprofit organizations, housing finance authorities, and community housing development organizations in preparing the report.

(b) Contents.–

(1) The report shall include information on the efforts of local governments, nonprofit organizations, housing finance authorities, and community housing development organizations to work with eligible families to purchase these homes and suggestions for mechanisms to facilitate the efforts. The report shall also include recommendations for (A) evaluating the rehabilitation costs of the properties necessary to achieve the minimum standards, (B) developing innovative approaches for involving non-Federal entities in the sale and rehabilitation of the properties and (C) providing the means to make the older stock habitable and available.

(2) The report shall also include proposals directed toward very-low income, low-income and moderate-income first-time homebuyers and the assistance that may be provided to such homebuyers to foster purchase.

SEC. 339. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $84,982,000,000 during fiscal year 1991 and $88,296,000,000 during fiscal year 1992.".

SEC. 340. INCREASE IN LOAN LIMITS FOR PROPERTY IMPROVEMENT LOAN INSURANCE.

(a) Study.–The Secretary of Housing and Urban Development shall conduct a study regarding the need for increasing the loan limits under section 2(b) of the National Housing Act for insurable property improvement loans and the effects of such an increase. The Secretary shall submit a report to the Congress not later than 6 months after the date of the enactment of this Act regarding the findings and conclusions of the study.

(b) Maximum Loan Amounts.–

(1) In general.–Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended–

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) $25,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures; and

"(ii) $17,500 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;"; and

(B) in subparagraph (B), by striking "$43,750 or an average amount of $8,750 per family unit ($50,000 and $10,000, respectively, where financing the installation of a solar energy system is involved)" and inserting "$60,000 or an average amount of $12,000 per family unit".

(2) Applicability.–The amendements made by this subsection shall apply to loans executed on or after June 1, 1991.

(c) Loan Term.–Section 2(b)(3) of the National Housing Act (12 U.S.C. 1703(b)(3)) is amended–

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon

or in connection with an existing single-family structure; and

"(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;"; and

(2) in subparagraph (B), by striking "fifteen years" and inserting "twenty years".

Subtitle C–Effective Date

SEC. 351. EFFECTIVE DATE.

If the Omnibus Budget Reconciliation Act of 1990 is enacted before the enactment of this Act, the provisions of sections 323, 324, 325, 331, 332, 334(a), and 336 (of this Act) and the amendments made by such sections shall not take effect. This section shall apply notwithstanding any provision relating to effective date or applicability contained in such sections.

TITLE IV–HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Homeownership and Opportunity Through HOPE Act".

Subtitle A–HOPE for Public and Indian Housing Homeownership

SEC. 411. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE III–HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

"SEC. 301. PROGRAM AUTHORITY.

"(a) In General.–The Secretary is authorized to make–

"(1) planning grants to help applicants to develop homeownership programs in accordance with this title; and

"(2) implementation grants to carry out homeownership programs in accordance with this title.

"(b) Authority To Reserve Housing Assistance.–In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

"(c) Authorization of Appropriations.–There are authorized to be appropriated for grants under this title $68,000,000 for fiscal year 1991 and $380,000,000 for fiscal year 1992. Any amount appropriated pursuant to this subsection shall remain available until expended.

"SEC. 302. PLANNING GRANTS.

"(a) Grants.–The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) Eligible Activities.–Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including–

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants related to development of a specific homeownership program;

"(3) studies of the feasibility of a homeownership program;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) Application.–

"(1) Form and procedures.–An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) Minimum requirements.–The Secretary shall require that an application contain at a minimum–

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) Selection Criteria.–The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include–

"(1) the qualifications or potential capabilities of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

"(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

"(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

"SEC. 303. IMPLEMENTATION GRANTS.

"(a) Grants.–The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

"(b) Eligible Activities.–Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

"(1) Architectural and engineering work.

"(2) Implementation of the homeownership program, including acquisition of the public housing project (not including scattered site single family housing of a public housing agency) from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

"(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

"(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

"(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

"(6) Counseling and training of homebuyers and homeowners under the homeownership program.

"(7) Relocation of tenants who elect to move.

"(8) Any necessary temporary relocation of tenants during rehabilitation.

"(9) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance under section 9, with adjustments comparable to those that would have been made under section 9.

"(10) Implementation of a replacement housing plan.

"(11) Legal fees.

"(12) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

"(13) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners

under the homeownership program.

"(c) Matching Funding.–

"(1) In general.–Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses, shall be provided from non-Federal sources to carry out the homeownership program.

"(2) Form.–Such contributions may be in the form of–

"(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

"(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

"(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

"(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

"(d) Application.–

"(1) Form and procedure.–An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) Minimum requirements.–The Secretary shall require that an application contain at a minimum–

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

"(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

"(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

"(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

"(I) the estimated sales prices, if any, and terms to eligible families;

"(J) any proposed restrictions on the resale of units under a homeownership program;

"(K) identification and description of the entity that will operate and manage the property;

"(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

"(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) Selection Criteria.–The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include–

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the feasibility of the homeownership program;

"(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

"(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

"(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

"(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez **NationalAffordableHousingAct**;

"(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

"(8) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

"(f) Location Within Participating Jurisdictions.–The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions–

"(1) which are participating jurisdictions under title III of the Cranston-Gonzalez **NationalAffordableHousingAct**; or

"(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

"(g) Approval.–The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"SEC. 304. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

"(a) In General.–A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(b) Affordability.–A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

"(c) Plan.–A homeownership program under this title shall provide, and include a plan, for–

"(1) identifying and selecting eligible families to participate in the homeownership program;

"(2) providing relocation assistance to families who elect to move;

"(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

"(4) providing ongoing training and counseling for homebuyers and homeowners; and

"(5) replacing units in eligible projects covered by a homeownership program.

"(d) Acquisition and Rehabilitation Limitations.–Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project (not including scattered site single family housing of a public housing agency) in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

"(e) Financing.–

"(1) In general.–The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) Prohibition against pledges.–Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that–

"(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

"(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

"(C) any debt obligation can be serviced from project income, including operating assistance; and

"(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

"(3) Opportunity to cure.–Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(f) Housing Quality Standards.–The application shall include a plan ensuring that the unit–

"(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

"(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this title.

"(g) Replacement Plan.–Public housing projects shall not be transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing may consist of–

"(1) the development of new public housing units by the public housing agency in accordance with section 5;

"(2) the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1);

"(3) the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9);

"(4) the use of a State or local program that is comparable to any of the Federal programs referred to in subparagraphs (A) through (C) as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years;

"(5) where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or

"(6) any combination of such methods.

"(h) Protection of Non-Purchasing Families.–

"(1) In general.–No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) Replacement assistance.–If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project,

or (B) section 8 assistance for use in other housing.

"(3) Relocation assistance.–The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"(4) Other rights.–Tenants renting a unit in a project transferred under this title shall have all rights provided to tenants of public housing under this Act.

"SEC. 305. OTHER PROGRAM REQUIREMENTS.

"(a) Sale by Public Housing Agency To Applicant or Other Entity Required.–Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

"(b) Preferences.–In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

"(c) Cost Limitations.–The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

"(d) Annual Contributions.–Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(e) Operating Subsidies.–Operating subsidies under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

"(f) Use of Proceeds From Sales to Eligible Families.–The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

"(g) Restrictions on Resale by Homeowners.–

"(1) In general.–

"(A) Transfer permitted.–A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

"(B) Right to purchase.–Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

"(C) Promissory note required.–The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

"(2) 6 years or less.–In the case of a transfer within 6 years of the acquisition under the program, the homeownership

program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of–

"(A) the contribution to equity paid by the family;

"(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

"(3) 6–20 years.–In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the remaining balance on the note described in paragraph (1)(C).

"(4) Use of recaptured funds.–Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(h) Third Party Rights.–The requirements under this title regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(i) Dollar Limitation on Economic Development Activities.–Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6) and 303(b)(9) for any project.

"(j) Timely Homeownership.–Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(k) Capability of Resident Management Corporations and Resident Councils.–To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

"(l) Records and Audit of Recipients of Assistance.–

"(1) In general.–Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(2) Access by the secretary.–The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"(3) Access by the comptroller general.–The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"SEC. 306. DEFINITIONS.

"For purposes of this title:

"(1) The term 'applicant' means the following entities that may represent the tenants of the project:

"(A) A public housing agency (including an Indian housing authority).

"(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

"(C) A resident council.

"(D) A cooperative association.

"(E) A public or private nonprofit organization.

"(F) A public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means–

"(A) a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant;

"(B) a low-income family; or

"(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

"(3) The term 'homeownership program' means a program for homeownership meeting the requirements under this title.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that–

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"SEC. 307. RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

"The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) and title II of this Act.

"SEC. 308. LIMITATION ON SELECTION CRITERIA.

"In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

"SEC. 309. ANNUAL REPORT

The Secretary shall annually submit to the Congress a report setting forth–

"(1) the number, type, and cost of public housing units sold pursuant to this title;

"(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

"(3) the amount and type of financial assistance provided under and in conjunction with this title;

"(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

"(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.".

SEC. 412. AMENDMENT TO SECTION 18 REGARDING DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) Opportunity to Purchase.–Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,".

(b) Applicability.–Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended by adding at the end the following new subsection:

"(e) The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of this Act.".

SEC. 413. RELATED AMENDMENTS TO SECTION 8.

(a) Eligibility.–The first sentence of section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)) is amended by–

(1) striking "or"; and

(2) inserting the following before the period: ", or

"(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez **NationalAffordableHousingAct**".

(b) Replacement Housing.–

(1) Certificates.–Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended by adding at the end the following new paragraph:

"(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 title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.".

(2) Vouchers.–Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this paragraph shall be for a term of not more than 60 months.".

SEC. 414. RELATED CIAP AMENDMENT.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended by adding at the end the following subsection:

"(n) Limitation.–The Secretary shall not make assistance under this section available with respect to a property transferred under title III.".

SEC. 415. LIMITATION ON SECTION 20 RESIDENT MANAGEMENT FINANCIAL ASSISTANCE.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended by adding at the end the following new paragraph:

"(4) Limitation regarding assistance under hope grant program.–The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III.".

SEC. 416. EXTENSION OF SECTION 21 HOMEOWNERSHIP PROGRAM AND PROVISION OF TECHNICAL AND OTHER ASSISTANCE.

Section 21(a) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)) is amended–

(1) by striking subparagraph (B) of paragraph (2) and inserting the following new subparagraph:

"(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.";

(2) in paragraph (2)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing title III of this Act. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act."; and

(3) in paragraph (3)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing title III of this Act. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such title.".

SEC. 417. AMENDMENT TO SECTION 5(h).

(a) In General.– Section 5(h) of the United States Housing Act of 1937 (42 U.S.C. 1437c(h)) is amended by adding at the end the following: "Any such sale shall be subject to the restrictions contained in section 304(f).".

(a) Effective Date.–The amendment made by subsection (a) shall not apply to applications submitted under section 5(h) of the United States Housing Act of 1937 prior to October 1, 1990.

SEC. 418. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

SEC. 419. APPLICABILITY TO INDIAN PUBLIC HOUSING.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title affects the program under section 202 of such Act.

Subtitle B–HOPE for Homeownership of Multifamily Units

SEC. 421. PROGRAM AUTHORITY.

(a) In General.–The Secretary is authorized to make–

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) Authority To Reserve Housing Assistance.–In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(c) Authorization of Appropriations.–There is authorized to be appropriated for grants under this subtitle $51,000,000 for fiscal year 1991 and $280,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 422. PLANNING GRANTS.

(a) Grants.–The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) Eligible Activities.–Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including–

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) preliminary architectural and engineering work;

(5) tenant and homebuyer counseling and training;

(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(7) development of security plans; and

(8) preparation of an application for an implementation grant under this subtitle.

(c) Application.–

(1) Form and procedures.–An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements.–The Secretary shall require that an application contain at a minimum–

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) Selection Criteria.–The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include–

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 423. IMPLEMENTATION GRANTS.

(a) Grants.–The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) Eligible Activities.–Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322 for such activities.

(6) Counseling and training of homebuyers and homeowners under the homeownership program.

(7) Relocation of tenants who elect to move.

(8) Any necessary temporary relocation of tenants during rehabilitation.

(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(10) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(11) Legal fees.

(12) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(13) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) Matching Funding.–

(1) In general.–Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) Form.–Such contributions may be in the form of–

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) Application.–

(1) Form and procedure.–An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements.–The Secretary shall require that an application contain at a minimum–

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 324 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) Selection Criteria.–The Secretary shall establish selection criteria for assistance under this section, which shall include–

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e) Approval.–The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

SEC. 424. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) In General.–A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) Affordability.–A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income

of the family per month to complete a sale under the homeownership program.

(c) Plan.–A homeownership program under this subtitle shall provide, and include a plan, for–

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) Acquisition and Rehabilitation Limitation.–Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) Financing.–

(1) In general.–The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) Prohibition against pledges.–Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that–

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) Opportunity to cure.–Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) Housing Quality Standards.–The application shall include a plan ensuring that the unit–

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(g) Protection of Nonpurchasing Families.–

(1) In general.–No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an

implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) Rental assistance.–If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant in that or another property.

(3) Relocation assistance.–The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

SEC. 425. OTHER PROGRAM REQUIREMENTS.

(a) Preferences.–In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) Cost Limitations.–The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) Use of Proceeds From Sales to Eligible Families.–The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) Restrictions on Resale by Homeowners.–

(1) In general.–

(A) Transfer permitted.–A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) Right to purchase.–Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) Promissory note required.–The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 years or less.–In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of–

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the

entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 years.–In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the remaining balance on the note described in paragraph (1)(C).

(4) Use of recaptured funds.–Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) Third Party Rights.–The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) Dollar Limitation on Economic Development Activities.–Not more than an aggregate of $250,000 from amounts made available under sections 422 and 423 may be used for economic development activities under sections 422(b)(6) and 423(b)(9) for any project.

(g) Timely Homeownership.–Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) Records and Audit of Recipients of Assistance.–

(1) In general.–Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by the secretary.–The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) Access by the comptroller general.–The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(i) Certain Entities Not Eligible.–Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an

entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

SEC. 426. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(2) The term "eligible family" means a family or individual–

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is–

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government.

(4) The term "homeownership program" means a program for homeownership under this subtitle.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that–

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 427. EXEMPTION.

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to–

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or

(2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 428. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 429. AMENDMENT TO NATIONAL HOUSING ACT.

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act,".

SEC. 430. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

SEC. 431. ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth–

(1) the number, type and cost of eligible properties transferred pursuant to this subtitle;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;

(3) the amount and type of financial assistance provided under and in conjunction with this subtitle;

(4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

Subtitle C–HOPE for Homeownership of Single Family Homes

SEC. 441. PROGRAM AUTHORITY.

(a) In General.–The Secretary is authorized to make–

(1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(b) Authorization of Appropriations.–There are authorized to be appropriated for grants under this subtitle $36,000,000 for fiscal year 1991, and $195,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 442. PLANNING GRANTS.

(a) Grants.–The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) Eligible Activities.–Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including–

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) preliminary architectural and engineering work;

(5) homebuyer counseling and training;

(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(7) development of security plans; and

(8) preparation of an application for an implementation grant under this subtitle.

(c) Application.–

(1) Form and procedures.–An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements.–The Secretary shall require that an application contain at a minimum–

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) Selection Criteria.–The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include–

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 443. IMPLEMENTATION GRANTS.

(a) Grants.–The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) Eligible Activities.–Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(5) Counseling and training of homebuyers and homeowners under the homeownership program.

(6) Relocation of eligible families who elect to move.

(7) Any necessary temporary relocation of homebuyers during rehabilitation.

(8) Legal fees.

(9) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(10) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) Matching Funding.–

(1) In general.–Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) Form.–Such contributions may be in the form of–

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) Application.–

(1) Form and procedure.–An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements.–The Secretary shall require that an application contain at a minimum–

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 444 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 444(b);

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) Selection Criteria.–The Secretary shall establish selection criteria for assistance under this subtitle, which shall include–

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez **NationalAffordableHousingAct**;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) Approval.–The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

SEC. 444. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) In General.–A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) Affordability.–A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) Eligible Property.–A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) Plan.–A homeownership program under this subtitle shall provide, and include a plan, for–

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) Housing Quality Standards.–The application shall include a plan ensuring that the unit–

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

SEC. 445. OTHER PROGRAM REQUIREMENTS.

(a) Cost Limitations.–The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) Use of Proceeds From Sales to Eligible Families.–Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) Restrictions on Resale by Homeowners.–

(1) In general.–

(A) Transfer permitted.–A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) Right to purchase.–Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to

purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) Promissory note required.–The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 years or less.–In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of–

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 years.–In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the remaining balance on the note described in paragraph (1)(C).

(4) Use of recaptured funds.–Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) Third Party Rights.–The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) Protection of Nonpurchasing Families.–No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(h) Records and Audit of Recipients of Assistance.–

(1) In general.–Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by the secretary.–The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) Access by the comptroller general.–The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

SEC. 446. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "displaced homemaker" has the same meaning as in section 104.

(3) The term "eligible family" means a family or individual who–

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term "eligible property" means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (including scattered site single family properties, and properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" has the same meaning as in section 104.

(6) The term "homeownership program" means a program for homeownership under this subtitle.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(8) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term "recipient" means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who–

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

SEC. 447. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 448. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

TITLE V–HOUSING ASSISTANCE

Subtitle A–Public and Indian Housing

SEC. 501. PREFERENCE RULES.

Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended to read as follows:

"(A) except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which–

"(i) for not less than 70 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this Act;
"(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (V) achieving other objectives of national housing policy as affirmed by Congress;
"(iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and
"(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a

broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems.”.

SEC. 502. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) Performance Indicators for Public Housing Agencies.–Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended to read as follows:

“(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies. The indicators shall be established by rule under section 553 of title 5, United States Code. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies in all major areas of management operations. The Secretary shall, in particular, use the following indicators:

“(A) The number and percentage of vacancies within an agency’s inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

“(B) The amount and percentage of funds obligated to the public housing agency under section 14 of this Act which remain unexpended after 3 years.

“(C) The percentage of rents uncollected.

“(D) The energy consumption (with appropriate adjustments to reflect different regions and unit sizes).

“(E) The average period of time that an agency requires to repair and turn-around vacant units.

“(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

“(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

“(H) Any other factors as the Secretary deems appropriate.

“(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are troubled with respect to the program under section 14.

“(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

“(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program under section 14), to petition for removal of such designation, and to appeal any refusal to remove such designation.

“(B) The Secretary shall seek to enter into an agreement with each troubled public housing agency setting forth–

“(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

“(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

"(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

"(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may–

"(i) solicit competitive proposals from other public housing agencies and private housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;

"(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection; and

"(iii) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part of, such housing.

"(B) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(C) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.

"(4) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that–

"(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

"(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

"(C) describes the agreements that have been entered into with such agencies under such paragraph;

"(D) describes the status of progress under such agreements;

"(E) describes any action that has been taken in accordance with paragraph (3); and

"(F) describes the status of any public housing agency designated as troubled with respect to the program under section 14 and specifies the amount of assistance the agency received under section 14 and any credits accumulated by the agency under section 14(k)(5)(D).".

(b) Report on Training and Certification Standards.–The Secretary shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies.

(c) Project-Based Accounting Systems.–

(1) In general.–Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended–

(A) in subparagraph (C) by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) except in the case of agencies not receiving operating assistance under section 9, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 250 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis.".

(2) Implementation.–The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C), taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993.

(c) Report.–

(1) In general.–Within 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report on the operation and efficiency of the Buffalo Municipal Housing Authority using, among other criteria, the performance indicators under section 6(j)(1) of the United States Housing Act of 1937 (as amended by this section), and giving special attention to such Authority's desegregation program and to the vacancy rate.

(2) Specific recommendations.–For purposes of the report required by paragraph (1), the Secretary may specifically determine whether to–

(A) petition for the appointment of a receiver for the Buffalo Municipal Housing Authority under the provisions of section 6(j)(3) of the United States Housing Act of 1937 (as amended by this section); or

(B) reduce operating subsidies for such Authority under the provisions of section 9 of the United States Housing Act of 1937.

SEC. 503. EVICTION AND TERMINATION PROCEDURES.

(a) Grievance Procedure.–Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k) is amended by striking the matter after the period at the end of paragraph (6) and inserting the following:

"For any grievance concerning an eviction or termination of tenancy that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any drug-related criminal activity on or near such premises, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents,

records, or regulations directly related to the eviction or termination.".

(b) Leases.–Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended–

(1) by striking "and" at the end of paragraph (4);

(2) by inserting after paragraph (5), the following new paragraph:

"(6) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.".

(c) Regulations.–The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section not later than the expiration of the 60-day period beginning on the date of the enactment of this Act and shall issue final rules implementing the amendments not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.

(d) Applicability.–Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937, as such section existed before the date of the enactment of this Act) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment.

SEC. 504. LEASE REQUIREMENTS REGARDING TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l)(5) of the Housing Act of 1937 (42 U.S.C. 1437d(l)(5)) is amended to read as follows:

"(5) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, 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; and".

SEC. 505. NOTICE TO POST OFFICE REGARDING EVICTION FOR CRIMINAL ACTIVITY.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.".

SEC. 506. PUBLIC HOUSING ASSISTANCE FOR FOSTER CARE CHILDREN.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) Subject to the preference rules specified in subsection (c)(4)(A), in providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to–

"(1) families identified by the agencies as having a lack of adequate housing that is a primary factor–

"(A) in the imminent placement of a child in foster care; or

"(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

"(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.".

SEC. 507. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) Authorization of Appropriations.–Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,000,000,000 for fiscal year 1991 and $2,086,000,000 in fiscal year 1992.".

(b) Services and Coordinators as Eligible Cost.–Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended–

(1) in paragraph (1)–

(A) by inserting "(A)" after the paragraph designation;

(B) in the second sentence, by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Annual contributions under this section to any public housing agency for any project with a sufficient number of residents who are frail elderly or persons with disabilities may be used, with respect to such project, for (i) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to residents of the project who are frail elderly or persons with disabilities to enable such residents to live independently and prevent placement in nursing homes or institutions; and (ii) expenses for the provision of services for such residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be provided under this section. For purposes of this subparagraph, the term 'frail elderly' shall have the meaning given the term under section 202(d) of the Housing Act of 1959, except that such term does not include any person receiving assistance provided under the Congregate Housing Services Act of 1978, and the term 'persons with disabilities' shall have the meaning given the term under section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct**)"; and

(2) in paragraph (3), by inserting before the first comma the following: "(except for payments under paragraph (1)(B))".

SEC. 508. COOLING DEGREE DAY ADJUSTMENT UNDER PERFORMANCE FUNDING SYSTEM.

In determining the Performance Funding System utility subsidy for public housing agencies pursuant to section 9 of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included.

SEC. 509. FORMULA ALLOCATION OF MODERNIZATION FUNDING.

(a) Formula Allocation to Agencies With 500 or More Units.–

(1) In general.–Section 14(k) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(k)) is amended to read as follows:

"(k)(1) From amounts approved in appropriation Acts for grants under this section for fiscal year 1992 and each fiscal year thereafter, and to the extent provided by such Acts, the Secretary shall reserve not more than $75,000,000 (including unused amounts reserved during previous fiscal years), which shall be available for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by public housing agencies from future allocations of assistance under paragraph (2), where available.

"(2)(A) After determining the amounts to be reserved under paragraphs (1) and (5)(D)(iv), the Secretary shall allocate the amount remaining pursuant to a formula contained in a regulation prescribed by the Secretary, which shall be designed to measure the relative needs of public housing agencies. The formula shall take into account amounts previously made available by the Secretary for modernization under this section and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary.

"(B) The Secretary shall allocate half of the amount allocated under this paragraph based on the relative backlog needs of public housing agencies, determined–

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the most recently available, statistically reliable data regarding the (I) backlog of needed repairs and replacements of existing physical systems in public housing projects, (II) items that must be added to projects to meet the modernization standards of the Secretary (referred to in subsection (e)(1)(A)(ii)(I)) and State and local codes, and (III) items that are necessary or highly desirable for the long-term viability of a project; or

"(ii) for individual public housing agencies with 500 or more units, where such data are not statistically reliable, on the basis of estimates of the categories of backlog specified in clause (i) using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding–

"(I) the average number of bedrooms in the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the extent to which units for families are in high-rise elevator projects;

"(IV) the age of the projects;

"(V) in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms;

"(VI) the cost of rehabilitating property in the area;

"(VII) for family projects, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses; and

"(VIII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the backlog needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

"(C) The Secretary shall allocate the other half of the amount allocated under this paragraph based on the relative accrued needs of public housing agencies for the categories of need specified in subparagraphs (B)(i) (I) and (II), determined–

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of

the last objective measurement of backlog needs under subparagraph (B); or

"(ii) for individual public housing agencies with 500 or more units, where the estimates under clause (i) are not statistically reliable, on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding–

"(I) the average number of bedrooms of the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the age of the projects;

"(IV) the extent to which the buildings in projects of an agency average fewer than 5 units;

"(V) the cost of rehabilitating property in the area;

"(VI) the total number of units of each agency that owns or operates 500 or more units; and

"(VII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the accrual needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

"(D)(i) In determining how many units an agency owns or operates and the relative modernization needs of agencies, the Secretary shall count each existing unit under the annual contributions contract, except that an existing unit under the turnkey III and the mutual help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair. For purposes of this section, an agency that qualifies to receive a formula grant under paragraph (4) may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units.

"(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall not adjust the amount the agency receives under the formula unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the units are demolished or disposed of, the Secretary shall reduce the formula amount for the agency over a 3-year period to reflect removal of the units from the contract.

"(iii) The Secretary shall determine whether the data under subparagraphs (B) and (C) are statistically reliable.

"(3) The amount determined under the formula for agencies with fewer than 500 units shall be allocated in accordance with subsection (d).

"(4) The amount determined under the formula for each agency that owns or operates 500 or more units shall be allocated to each qualifying agency in accordance with subsection (e).

"(5)(A) With respect to any agency that is designated as a troubled agency with respect to the program under this section upon the initial designation of such troubled agencies under section 6(j)(2)(A)(i), the Secretary shall limit the total amount of funding under this section for the agency for fiscal year 1992 and any fiscal year thereafter, if the agency remains designated as a troubled agency, to the sum of–

"(i) the average of the amount that the troubled agency received for modernization activities under this section and for major reconstruction of obsolete projects for each of fiscal years 1989, 1990, and 1991, which average shall be adjusted to take into account changes in the cost of rehabilitating property; plus

"(ii) 25 percent of the difference between the amount determined under clause (i) and the amount that would be allocated to the agency in such fiscal year if the agency were not designated as a troubled agency.

"(B) In any fiscal year the Secretary may, pursuant to the request of a troubled agency, increase the amount allocated to the agency under subparagraph (A) to an amount not exceeding the amount that would be allocated to the agency in such fiscal year if the agency were not a troubled agency. An increase under this subparagraph shall be based on the agency's progress toward meeting the performance indicators under section 6(j)(1). The Secretary shall render a decision in writing on each such request not later than 75 days after receipt of the request and any necessary supporting documentation.

"(C) For any fiscal year, any amounts that would have been allocated to an agency under the formula under paragraph (2) that are not allocated to the agency because the agency receives the amount provided under subparagraph (A) of this paragraph, shall be allocated in such year pursuant to the formula to other agencies with 500 or more units.

"(D) The Secretary shall carry out a credit system under this subparagraph to provide agencies that receive allocations under subparagraph (A) with additional assistance under this section after the agency is determined not to be a troubled agency, to compensate for amounts not received because of the troubled agency designation. The credit system shall be subject to the following requirements:

"(i) Any agency that receives assistance pursuant to subparagraph (A) for any fiscal year shall receive credits for the difference between the amount that the agency would have been allocated in such year if it were not designated a troubled agency and the amount allocated for the agency for such year under subparagraph (A).

"(ii) An agency may not receive credits under this subparagraph for more than 3 consecutive fiscal years.

"(iii) After a 3-year period during which an agency has accrued credits, the credits accrued by the agency shall be–

"(I) decreased by 10 percent of the total credits accumulated if the designation as a troubled agency is not removed before the conclusion of the first fiscal year after such 3-year period of accrual of credits;

"(II) decreased by an additional 20 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the second fiscal year after such 3-year accrual period;

"(III) decreased by an additional 30 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the third fiscal year after such 3-year accrual period; and

"(IV) eliminated if the designation as a troubled agency is not removed before the conclusion of the fourth fiscal year after such 3-year accrual period.

"(iv) After a determination by the Secretary that an agency is not a troubled agency, the Secretary shall provide the agency with amounts made available under this clause in accordance with the amount of credits accumulated by the agency (subject to the reductions under clause (iii)). Such amounts shall be provided in addition to the amounts allocated to the agency pursuant to the formula under paragraph (2). In each fiscal year, the Secretary shall reserve from amounts available for allocation under paragraph (2)(A) the amount necessary to provide assistance pursuant to such credits, except that the reserved amount may not exceed 5 percent of the total amount available for allocation under such paragraph.

"(v) In making payments for accrued credits in accordance with clause (iv), the Secretary may take into account the ability of the agency to expeditiously expend amounts received for credits.

"(E) The Secretary shall, by regulation, establish special rules for limiting the amount of assistance provided under this section to agencies that become troubled after the date of the initial designation of troubled agencies under section 6(j)(2)(A)(i). The rules may provide for a credit system based on the system established under this paragraph.

"(6) Any amounts (A) allocated under paragraph (4) that become available for reallocation because an agency does not qualify to receive all or a part of its formula allocation due to failure to comply with the requirements of this section (other than because of designation as a troubled agency), and (B) recaptured by the Secretary for good cause, shall (subject to approval in appropriations Acts) be reallocated by the Secretary in the next fiscal year to other housing agencies that own

or operate 500 or more units, based on their relative needs. The relative needs of agencies shall be measured by the formula established pursuant to paragraph (2)(A).

"(7) A public housing agency may appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used for determining the formula amount were not correct.

"(8) Amounts allocated to a public housing agency under paragraph (3) or (4) may be used for any eligible activity in accordance with this section, notwithstanding that the allocation amount is determined by allocating half based on relative backlog needs and half based on relative accrued needs of agencies.".

(2) Conforming amendments.–Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended–

(A) in subsection (e)(3)(A), by striking the second sentence; and

(B) in subsection (h)–

(i) in the matter preceding paragraph (1), by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates fewer than 500 public housing dwelling units"; and
(ii) in paragraph (2), by striking "or (e)".

(b) Removal of Certain Requirements for Agencies With Fewer Than 500 Units.–Section 14(d)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(d)(4)) is amended–

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraphs (C), (D), and (E).

(c) Limitation of Special Purpose Modernization to Agencies With Fewer Than 500 Units.–Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended–

(1) in subsection (f)(2)(B), by striking "and to meet special purpose needs described in section 14(i)(1)(D)"; and

(2) in the first sentence of subsection (i)(1), by striking "In addition" and all that follows through the third comma and inserting the following: "In addition to assistance made available under subsection (b) to a public housing agency that owns or operates fewer than 500 public housing dwelling units, the Secretary may, without regard to the requirements of subsection (c), (d), (f), (g), or (h),".

(d) Special Purpose Management Modernization for Agencies With Fewer Than 500 Units.–Section 14(i)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(i)(1)) is amended–

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) management improvement needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8.".

(e) Establishment of 250-Unit Threshold Beginning in Fiscal Year 1993.–

(1) In general.–Effective October 1, 1992, section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*), as

amended by this section, is further amended by striking "500" and inserting "250" in each of the following places:

(A) The first sentence of subsection (d).

(B) In subsection (e), the first sentence of each of paragraphs (1), (3)(A), (4)(A) and (4)(C).

(C) Subsections (f)(1) and (f)(2).

(D) Subsection (h).

(E) The first sentence of subsection (i)(1).

(F) In subsection (k), in paragraphs (2)(B)(i), (2)(B)(ii), (2)(C)(i), (2)(C)(ii), (3), (4), (5)(B), and (6).

(G) Subsection (l)(2).

(2) Exception.–Effective October 1, 1992, section 14(k)(2)(D)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(k)(2)(D)(i)), as amended by this section, is further amended by striking "400" and inserting "200".

(f) Transition.–Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) Any amount that the Secretary has obligated to a public housing agency under this section other than pursuant to the program established under subsection (e), shall be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropriate.".

(g) Section Heading.–The section heading of section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended to read as follows:

"PUBLIC AND INDIAN HOUSING MODERNIZATION".

(h) Regulations.–

(1) In general.–The Secretary of Housing and Urban Development shall implement the amendments made by this section by rule under section 553 of title 5, United States Code. The Secretary shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing a proposed rule pursuant to such section. The proposed rule shall be published not later than the expiration of the 120-day period beginning on the date of the enactment of this Act.

(2) Allocation formula.–The Secretary of Housing and Urban Development shall establish the allocation formula under section 14(k)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a) of this section, by rule under section 553 of title 5, United States Code. In publishing a proposed rule regarding the formula pursuant to such section 553, the Secretary shall describe–

(A) the analytic basis for the formula;

(B) the weight assigned to the various criteria contained in the formula pursuant to such section 14(k)(2);

(C) deductions from the formula share for amounts received for modernization activities under section 14 and major reconstruction of obsolete projects; and

(D) any other information the Secretary determines is appropriate.

(3) Alternative formulas.–When publishing the proposed rule required under paragraph (2), the Secretary of Housing and Urban Development may, at the discretion of the Secretary, publish alternative formulas, identifying the weights assigned to the various criteria under the formulas, and explaining the differences in operation and objectives of the alternative formulas.

(i) Reports to Congress.–

(1) Independent evaluation–The Secretary of Housing and Urban Development shall enter into a contract providing for the independent evaluation of the modernization program authorized under section 14 of the United States Housing Act of 1937, as amended by this section, and shall submit to the Congress a report on the results of the evaluation within 3 years after the initial allocation of assistance by formula under such section 14.

(2) Modifications.–The Secretary shall submit a report to Congress, within 2 years after the date of enactment of this Act, recommending any changes to such section 14 that the Secretary determines are appropriate to take into account the relative needs of public housing agencies for assistance to carry out lead-based paint testing and abatement activities. The Secretary shall not adopt any changes to the formula for this purpose except by law.

SEC. 510. REDUCTION OF VACANCIES IN PUBLIC HOUSING UNITS.

(a) In General.–Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall require any public housing agency that has a vacancy rate among dwelling units owned or operated by the agency that exceeds twice the average vacancy rate among all agencies or that is designated as a troubled agency under section 6(j), to participate in the vacancy reduction program under this subsection.

"(2) Each public housing agency participating in the program under this subsection shall develop and submit to the Secretary a vacancy reduction plan regarding vacancies in units owned or operated by the agency. The plan shall include statements (A) identifying vacant dwelling units administered by the agency and explaining the reasons for the vacancies, (B) describing the actions to be taken by the agency during the following 5 years to eliminate the vacancies, (C) identifying any impediments that will prevent elimination of the vacancies within the 5-year period, (D) identifying any vacant units subject to modernization, reconstruction, demolition, and disposition activities that have been funded or approved, (E) identifying any vacant dwelling units that are eligible for comprehensive modernization, major reconstruction, demolition, or disposition but have not been funded or approved for such activities and are not likely to be funded or approved for at least 3 years and estimating the amount of assistance necessary to complete the modernization, major reconstruction, demolition, or disposition of such units, (F) identifying any vacant units not identified under subparagraphs (E) and (F) and describing any appropriate activities relating to elimination of the vacancies in such units and estimating the amount of assistance necessary to carry out the activities, and (G) setting forth an agenda for implementation of management improvements (including, as appropriate, improvements recommended by the assessment team pursuant to paragraph (3)(C)) during the first fiscal year beginning after submission of the plan and including an estimate of the amount of assistance necessary to implement the improvements.

"(3)(A) In cooperation with each agency participating in the program under this subsection, the Secretary shall provide for onsite assessment of the vacancy situation of the agency by a team of knowledgeable observers. The assessment team shall include representatives of the Department of Housing and Urban Development and an equal number of independent experts knowledgeable with respect to vacancy problems and management issues relating to public housing, who shall be selected by the Secretary. The assessment team shall assess the vacancy situation of the agency to determine the causes of the vacancies, including any management deficiencies or modernization activities.

"(B) The assessment team shall also examine indicators of the management performance of the agency relating to vacancy, which shall include consideration of the performance of the agency as measured by the indicators under subparagraphs (A) and (E) of section 6(j)(1).

"(C) The assessment team shall submit to the agency and the Secretary written recommendations for management

improvements to eliminate or alleviate management deficiencies, and may assist the agency in preparing the vacancy reduction plan under paragraph (2), including determining appropriate actions to eliminate vacancies.

"(4) The Secretary shall, to the extent approved in appropriations Acts, provide assistance under this subsection to public housing agencies submitting vacancy reduction plans for reasonable costs of–

"(A) implementing management improvements;

"(B) rehabilitating vacant dwelling units identified in the statement under paragraph (2); and

"(C) carrying out vacancy reduction activities described in the statement under paragraph (2).

"(5) Of any amounts available for allocation under this section to large public housing agencies pursuant to subsection (k)(2), not more than $105,000,000 shall be available in fiscal year 1991 and not more than $220,000,000 shall be available in fiscal year 1992 for carrying out this subsection.".

SEC. 511. INCOME ELIGIBILITY FOR PUBLIC HOUSING.

Section 16(b) of the United States Housing Act of 1937 (42 U.S.C. 1437n(b)) is amended–

(1) by striking "(b) Not" and inserting "(b)(1) Not";

(2) by striking "5 per centum" and inserting "15 percent"; and

(3) by adding at the end the following new paragraph:

"(2) Not more than 25 percent of the dwelling units in any project of any agency shall be available for occupancy by low-income families other than very low-income families. The limitation shall not apply in the case of any project in which, before the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, such low-income families occupy more than 25 percent of the dwelling units.".

SEC. 512. SCATTERED-SITE PUBLIC HOUSING DISPOSITION PROCEEDS.

(a) In General.–Section 18(a)(2)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(a)(2)(B)(i)) is amended by inserting before the first comma the following: ", which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition".

(b) Applicability.–The amendment made by this section shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act.

SEC. 513. REPLACEMENT HOUSING.

(a) Demonstration Program.–

(1) Authority.–The Secretary of Housing and Urban Development (in this subsection referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under section 8 of the United States Housing Act of 1937.

(2) Scope.–The Secretary shall carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for the City of Saint Louis, in the State of Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition.

(3) Requirements.–

(A) Section 8 assistance.–Notwithstanding the provisions of section 18(b)(3)(A) of the United States Housing Act of 1937, under the demonstration program the Secretary may approve the demolition or disposition of public housing dwelling units and provide assistance for replacement of each such dwelling unit through the use of assistance under section 8 of such Act in the form of a 5-year certificate under such section 8(b).

(B) Tenant-based assistance.–Notwithstanding the provisions of section 18(b)(3)(B) of the United States Housing Act of 1937, the 5-year section 8 assistance provided under this section may be tenant-based if such public housing authority shows, to the satisfaction of the Secretary, that an adequate supply of private rental housing affordable to low-income families is available in the market area for the 5-year period (at rents at or below the fair market rental for the area).

(C) Applicability of other section 18 provisions.–Except as provided under subparagraphs (A) and (B), the provisions of section 18 of the United States Housing Act of 1937 shall apply to any public housing dwelling units demolished or disposed under the demonstration under this subsection.

(4) Termination.–The demonstration program under this subsection shall terminate at the end of September 30, 1992.

(b) Budget Request.–Section 18(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437p(c)(2)) is amended by inserting after the period at the end the following: "As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report–

"(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3); and

"(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in subparagraph (A).".

(c) Repealer.–Section 18(c)(3) of the United States Housing Act of 1937 (42 U.S.C 1437p(c)(3)) is repealed.

SEC. 514. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) Funding.–Of amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $5,000,000 for each of fiscal years 1991 and 1992.".

SEC. 515. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

(a) In General.–Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"FAMILY INVESTMENT CENTERS

"Sec. 22. (a) Purpose.–The purpose of this section is to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by–

"(1) developing facilities in or near public housing for training and support services;

"(2) mobilizing public and private resources to expand and improve the delivery of such services;

"(3) providing funding for such essential training and support services that cannot otherwise be funded; and

"(4) improving the capacity of management to assess the training and service needs of families with children, coordinate the provision of training and services that meet such needs, and ensure the longterm provision of such training and services.

"(b) Grant Authority.–

"(1) In general.–The Secretary may make grants to public housing agencies to adapt public housing to help families living in the public housing gain better access to educational and job opportunities to achieve self-sufficiency and independence. Assistance under this section may be made available only to public housing agencies that demonstrate to the satisfaction of the Secretary that supportive services (as such term is defined under subsection (j) will be made available. Facilities assisted under this section shall be in or near the premises of public housing.

"(2) Supplemental grant set-aside.–The Secretary may reserve not more than 5 percent of the amounts available in each fiscal year under this section to supplement grants awarded to public housing agencies under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

"(c) Use of amounts.–Amounts received from a grant under this section may only be used for–

"(1) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create common areas to accommodate the provision of supportive services;

"(2) the renovation of existing common areas in a public housing project to accommodate the provision of supportive services;

"(3) the renovation of facilities located near the premises of 1 or more public housing projects to accommodate the provision of supportive services;

"(4) the provision of not more than 15 percent of the cost of any supportive services (which may be provided directly to eligible residents by the public housing agency or by contract or lease through other appropriate agencies or providers) only if the public housing agency demonstrates to the satisfaction of the Secretary that–

"(A) the supportive services are appropriate to improve the access of eligible residents to employment and educational opportunities; and

"(B) the public housing agency has made diligent efforts to use or obtain other available resources to fund or provide such services; and

"(5) the employment of service coordinators subject to such minimum qualifications and standards that the Secretary may establish to ensure sound management, who may be responsible for–

"(A) assessing the training and service needs of eligible residents;

"(B) working with service providers to coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents;

"(C) mobilizing public and private resources to ensure that the supportive services identified pursuant to subsection (e)(1) can be funded over the time period identified under such subsection;

"(B) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

"(V) performing such other duties and functions that the Secretary determines are appropriate to provide families living in

public housing with better access to educational and employment opportunities.

"(d) Allocation of Grant Amounts.–Assistance under this section shall be allocated by the Secretary among approvable applications submitted by public housing agencies.

"(e) Applications.–Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Each application for assistance shall contain–

"(1) a description of the supportive services that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under subsection (c) that involve substantial rehabilitation);

"(2) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities assisted under subsection (c);

"(3) a description of public or private sources of assistance that can reasonably be expected to fund or provide supportive services for the entire period specified under paragraph (1), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(4) certification from the appropriate State or local agency (as determined by the Secretary) that–

"(A) the provision of supportive services described in paragraph (1) is well designed to provide resident families better access to educational and employment opportunities; and

"(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified in paragraph (1);

"(5) a description of assistance for which the public housing agency is applying under this section; and

"(6) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this section.

"(f) Selection.–The Secretary shall establish selection criteria for grants under this section, which shall take into account–

"(1) the ability of the public housing agency or a designated service provider to provide the supportive services identified under subsection (e)(1);

"(2) the need for such services in the public housing project;

"(3) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of such services;

"(4) the extent to which the public housing agency has demonstrated that such services will be provided for the period identified under subsection (e)(1);

"(5) the extent to which the public housing agency has a good record of maintaining and operating public housing; and

"(6) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this section are used effectively.

"(g) Reports.–

"(1) To secretary.–Each public housing agency receiving a grant under this section shall submit to the Secretary, in such

form and at such time as the Secretary shall prescribe, an annual progress report describing and evaluating the use of grant amounts received under this section.

"(2) To congress.–The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this section in such fiscal year. Such report shall summarize the progress reports submitted pursuant to paragraph (1).

"(h) Employment of Public Housing Residents.–Each public housing agency shall, to the maximum extent practicable, employ public housing residents to provide the services assisted under this section or from other sources. Such persons shall be paid at a rate not less than the highest of–

"(1) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

"(2) the State or local minimum wage for the most nearly comparable covered employment; or

"(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

"(i) Treatment of Income.–No service provided to a public housing resident under this section may be treated as income for the purpose of any other program or provision of State or Federal law.

"(j) Definition of Supportive Services.–For purpose of this section, the term 'supportive services' means new or significantly expanded services that the Secretary determines are essential to providing families living with children in public housing with better access to educational and employment opportunities. Such services may include–

"(1) child care;

"(2) employment training and counseling;

"(3) literacy training;

"(4) computer skills training;

"(5) assistance in the attainment of certificates of high school equivalency; and

"(6) other appropriate services.

"(k) Authorization of appropriations.–There are authorized to be appropriated to carry out this section $25,000,000 in fiscal year 1991, and $26,100,000 in fiscal year 1992.".

(b) Conforming Amendment.–Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new undesignated paragraph:

"The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of this Act, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during–

"(1) the period that the resident participates in such program; and

"(2) the period that–

"(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion

of such program that is not funded by assistance under this Act; and

"(B) ends on the earlier of–

"(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or
"(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).".

SEC. 516. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended–

(1) by striking "The Secretary" and inserting the following:

"(1) In general.–The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) Eligibility for ciap.–Notwithstanding the provisions of section 14(c), the Secretary may provide assistance provided for comprehensive modernization under section 14 for the housing projects under this section for the purposes under section 14. Any assistance shall be provided under this paragraph only in the form of a single grant for each housing project (or unit within a project) selected for such assistance.".

SEC. 517. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT GRANTS.

(a) Authorization of Appropriations.–Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended to read as follows:

"(g) Authorization of Appropriations.–To the extent provided in appropriations Acts, of the amounts made available for public housing grants under section 5(c) of the United States Housing Act of 1937, there shall be set aside to carry out this section $15,000,000 for fiscal year 1991 and $15,700,000 for fiscal year 1992. Any amount appropriated pursuant to such section 5(c) and authorized for use under this subsection shall remain available until expended.".

(b) Redesignation as Early Childhood Development Program.–

(1) In general.–Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701–6 note) is amended–

(A) in subsection (a), by striking "child care services" each place it appears and inserting "early childhood development services";

(B) in subsection (b)–

(i) in the matter preceding paragraph (1), by striking "child care services" and inserting "early childhood development services";
(ii) in paragraph (1), by striking " a child care services program" and inserting "an early childhood development program";
(iii) in paragraph (2), by striking "child care services" and inserting "early childhood development services"; and
(iv) in paragraphs (3), (4), (5), and (6), by striking "child care services program" each place it appears and inserting "early childhood development program";

(C) in subsection (c)–

(i) in paragraphs (1) and (2), by striking "child care services" each place it appears and inserting "early childhood development services"; and
(ii) in paragraph (3), by striking "child care services programs" and inserting "early childhood development programs";

(D) in subsection (d)–

(i) in paragraph (2), by striking "child care services" and inserting "early childhood development services";
(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking "child care services program" and inserting "early childhood development program";
(iii) in paragraph (3)(A), by striking "child care services" and inserting "early childhood development services"; and
(iv) in paragraph (4), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(E) in subsection (e), by striking "child care services" and inserting "early childhood development services".

(2) Conforming amendment.–The section heading for section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701–6 note) is amended to read as follows:

"PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM".

SEC. 518. INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

(a) Set-Aside of Indian Public Housing Amounts.–Of any amounts approved in appropriations Acts under section 5(c)(7) of the United States Housing Act of 1937 for public housing grants for Indian housing, the Secretary of Housing and Urban Development shall use $5,000,000 in fiscal year 1991 and $5,200,000 in fiscal year 1992 (to the extent such amounts are approved under such appropriations Acts) for carrying out a demonstration program under this section. Under the demonstration, the Secretary shall make grants to nonprofit organizations to assist such organizations in providing early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority for low-income families who reside in such Indian public housing.

(b) Operation of Demonstration.–Except as provided in this section, the Secretary of Housing and Urban Development shall carry out the demonstration program under this section in low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in the same manner as the demonstration program under section 222 of the Housing and Urban-Rural Recovery Act of 1983 is carried out. For purposes of this section, any reference to "public housing" or a "low income housing project" in section 222 of such Act is deemed to refer to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(c) Limitations.–

(1) Tribal diversity.–The Secretary of Housing and Urban Development shall provide that the demonstration program under this section is carried out in not more than 1 Indian public housing project for any single Indian tribe.

(2) Geographic diversity.–The Secretary of Housing and Urban Development shall carry out the demonstration program under this section through various Indian housing authorities and provide for geographic distribution among such housing authorities.

(d) Report.–

(1) In general.–Not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) Conforming provision.–Notwithstanding subsection (b) of this section, section 222(e) of the Housing and Urban-Rural Recovery Act of 1983 (regarding submission of a report) shall not apply to this section and the demonstration program

carried out under this section.

SEC. 519. PUBLIC HOUSING RENT WAIVER FOR POLICE OFFICERS.

(a) Authority.–Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may permit public housing agencies to allow police officers and other security personnel (who are not otherwise eligible for residence in public housing) to reside in public housing dwelling units in accordance with this section.

(b) Plan.–To be eligible to utilize dwelling units as provided under this section, a public housing agency shall submit to the Secretary a plan identifying the projects in which the police officers or security personnel will reside and describing the anticipated benefits from such residence.

(c) Approval.–The Secretary may approve a plan and authorize the use of dwelling units under this section only if the Secretary determines that such use will–

(1) increase security for other public housing residents;

(2) result in a limited loss of income to the public housing agency; and

(3) not result in a significant reduction of units available for residence by families eligible for such residence under the provisions of the United States Housing Act of 1937.

The Secretary shall notify each public housing agency submitting a plan under subsection (b) of approval or disapproval of the plan not later than 30 days after the Secretary receives the plan.

(d) Terms.–Upon approving a plan under subsection (b), the Secretary shall waive the applicability of any occupancy requirements with respect to the officers or other personnel, and may permit the public housing agency submitting the plan to establish such special rent requirements and other terms and conditions of occupancy that the Secretary considers appropriate.

SEC. 520. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) Youth Sports Program Grants.–From amounts provided for public and assisted housing drug elimination grants under section 5130(a) of the Anti-Drug Abuse Act of 1988, the Secretary of Housing and Urban Development may make grants to qualified entities under subsection (b) to carry out youth sports programs in projects of public housing agencies with substantial drug problems.

(b) Entities Qualified To Receive Grants.–Grants under this section may be made only to–

(1) States;

(2) units of general local government;

(3) local park and recreation districts and agencies;

(4) public housing agencies;

(5) nonprofit organizations providing youth sports services programs;

(6) Indian tribes; and

(7) Indian housing authorities.

(c) Use of Grants.–

(1) Public housing sites with substantial drug problems.–Grants under this section shall be used for youth sports programs only with respect to public housing sites that the Secretary determines have a substantial problem regarding the use or sale of illegal drugs.

(2) Youth sports program eligibility.–To be eligible to receive assistance from a grant under this section, a youth sports program shall be designed and organized as follows:

(A) The sports program shall serve primarily youths from the public housing project in which the program assisted by the grant is operated.

(B) The sports program shall provide positive sports activities or positive cultural, recreational, or other activities, designed to appeal to youths as alternatives to the drug environment in the public housing project.

(C) The sports program shall be operated as, in conjunction with, or in furtherance of, an organized program or plan designed to eliminate drugs and drug-related problems in the public housing project or projects within the public housing agency.

(d) Eligible Activities.–Any qualified entity that receives a grant under this section may use amounts from the grant to assist in carrying out a youth sports program in any of the following manners:

(1) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds.

(2) Redesigning or modifying public spaces in public housing projects to provide increased utilization of the areas by youth sports programs.

(3) Provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment.

(e) Grant Amount Limitations.–

(1) Matching amount.–The Secretary may not make a grant to any qualified entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary, as the Secretary shall require, that the applicant will supplement the amount provided by the grant with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

(2) Non-federal funds.–For purposes of this subsection, the term “funds from non-Federal sources” includes funds from States, units of general local governments, or agencies of such governments, Indian tribes, private contributions, any salary paid to staff to carry out the youth sports program of the recipient, the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, the value of any donated material, equipment, or building, and the value of any lease on a building.

(3) Prohibition of substitution of funds.–Neither amounts received from grants under this section nor any State or local government funds used to supplement such amounts may be used to replace other public funds previously used, or designated for use, for the purposes under this Act.

(4) Maximum annual grant amount.–For any single fiscal year, the Secretary may not award grants under this section for carrying out a youth sports program with respect to any single public housing project in an amount exceeding $125,000.

(f) Applications.–To be eligible to receive a grant under this section, a qualified entity under subsection (b) shall submit to the Secretary an application as the Secretary may require, which shall include the following:

(1) A description of the organization of the youth sports program.

(2) A description of the nature of services provided by the youth sports program.

(3) An estimate of the number of youth involved.

(4) A description of the extent of involvement of local sports organizations or sports figures.

(5) A description of the facilities used.

(6) A description of plans to continue the youth sports program in the future.

(7) A statement regarding the extent to which the youth sports program meets the criteria for selection under subsection (g).

(8) A description of the planned schedule and activities of the youth sports program and the financial and other resources committed to each activity and service of the program.

(9) A budget describing the share of the costs of the youth sports program provided by the grant under this section and other sources of funds, including funds required under subsection (e)(1).

(10) Any other information that the Secretary may require.

(g) Selection Criteria.–The Secretary shall select qualified entities that have applied under subsection (f) to receive grants under this section pursuant to a competition based on the following criteria:

(1) The extent to which the youth sports program to be assisted with the grant addresses the particular needs of the area to be served by the program and employs methods, approaches, or ideas in the design or implementation of the program particularly suited to fulfilling such needs (whether such methods are conventional or unique and innovative).

(2) The technical merit of the application of the qualified entity.

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application.

(4) The capabilities, related experience, facilities, techniques of the applicant for carrying out the youth sports program and achieving the objectives of the program as described in the application and the potential of the applicant for continuing the youth sports program.

(5) The severity of the drug problem at the local public housing site for the youth sports program and the extent of any planned or actual efforts to rid the site of the problem.

(6) The extent to which local sports organizations or sports figures are involved.

(7) The extent of the support of the public housing agency for the program, coordination of proposed activities with local resident management groups or associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of this section.

(8) The extent of non-Federal contributions that exceed the amount of such funds required under subsection (e)(1).

(9) In the case of a qualified entity under paragraph (3) or (4) of subsection (b), the extent to which the applicant has demonstrated local government support for the program.

(h) Report.–Each qualified entity that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 90-day period beginning on the date on which the grant amounts provided under this section are fully expended, a report describing the activities carried out with the grant.

(i) Definitions.–For purposes of this section:

(1) Indian tribe.–The term "Indian tribe" has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.

(2) Public housing agency.–The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) Public housing project.–The terms "project" and "public housing" have the meanings given the terms in section 3(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(4) Qualified entity.–The term "qualified entity" means an entity eligible under subsection (b) to apply for and receive a grant under this section.

(5) State.–The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) Unit of general local government.–The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(7) Secretary.–The term "Secretary" means the Secretary of Housing and Urban Development.

(j) Regulations.–The Secretary shall issue any regulations necessary to carry out this section.

(k) Authorization of Appropriations.–Section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908), as amended by the preceding provisions of this Act, is further amended by inserting after the first sentence the following new sentence: "From any amounts appropriated under this section in each fiscal year, 5 percent of such amounts shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez **NationalAffordableHousingAct** for such fiscal year.".

SEC. 521. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

(a) Establishment of Demonstration Program.–

(1) In general.–The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall carry out a program to demonstrate the effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs (as defined in subsection (e)(1)) available for pregnant women who reside in public housing. Under the demonstration program, the Secretary shall make grants to not more than 10 public housing agencies.

(2) Consultation requirements.–In carrying out the demonstration program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies.

(b) Allocation of Assistance.–

(1) Preferences.–In selecting public housing agencies for grants under this section, the Secretary shall give preference to the following public housing agencies:

(A) Areas with high infant mortality rates.–Public housing agencies serving areas with high infant mortality rates.

(B) Secure facilities.–Public housing agencies that demonstrate, to the satisfaction of the Secretary, that security will be

provided so that women are safe when participating in the one-stop perinatal services program carried out at the facilities provided or assisted under this section.

(2) Limitation on grant amount.–The aggregate amount provided under this section for any public housing project may not exceed $15,000.

(c) Demonstration Program Requirements.–

(1) Applications.–Applications for grants under this section shall be made by public housing agencies in accordance with procedures established by the Secretary and shall include a description of the one-stop perinatal services program to be provided in the facilities provided or assisted under this section.

(2) Use of grants.–Any public housing agency receiving a grant under this section may use the grant only for the costs of providing facilities and minor renovations of facilities necessary to make one-stop perinatal services programs available to pregnant women who reside in public housing.

(3) Reports to secretary.–Each public housing agency receiving a grant under this section for any fiscal year shall submit to the Secretary, not later than 3 months after the end of such fiscal year, a report describing the facilities provided by the public housing agency under this section and the one-stop perinatal services program carried out in such facilities. The report shall include data on the size of the facilities, the costs and extent of any renovations, the previous use of the facilities, the number of women assisted by the program, the trimester of the pregnancy of the women at the time of initial assistance, infant birthweight, infant mortality rate, and other relevant information.

(4) Applicable standards.–No provision of this section may be construed to authorize the Secretary to establish any health, safety, or other standards with respect to the services provided by the one-stop perinatal services program or facilities provided or assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for such services and facilities.

(d) Report to Congress.–Not later than 1 year after the date that amounts to carry out this section are first made available under appropriations Acts, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program under this section. The report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of providing facilities in public housing for making perinatal services available to pregnant women who reside in the public housing.

(e) Definitions.–For purposes of this section:

(1) One-stop perinatal services program.–The term “one-stop perinatal services program” means a program to provide a wide range of services for pregnant and new mothers in a coordinated manner at a drop-in center, which may include any of the following:

(A) Information and education.–Information and education for pregnant women regarding perinatal care services, and related services and resources, necessary to decrease infant mortality and disability.

(B) Health care services.–Basic health care services that can be provided without a physician present.

(C) Referral.–Basic health screening of pregnant women and referrals for health care services.

(D) Followup.–Followup assessment of women and infants (including measurement of weight) and referrals for health care services and related services and resources.

(E) Social worker.–Information and assistance regarding Federal and State social services provided by a social worker.

(F) Other.–Any other services to assist pregnant or new mothers.

(2) Public housing.–The terms "public housing" and "public housing agency" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) Secretary.–The term "Secretary" means the Secretary of Housing and Urban Development.

(f) Regulations.–The Secretary shall issue any regulations necessary to carry out this section.

(g) Authorization of Appropriations.–Of any amounts approved in appropriations Acts under section 22(k) of the United States Housing Act of 1937 for fiscal year 1991, the Secretary shall use $150,000 (to the extent such amounts are approved in appropriations Acts) for carrying out the demonstration program under this section.

SEC. 522. PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.

(a) Establishment of Demonstration Program.–

(1) In general.–The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socioeconomically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities.

(2) Comprehensive services.–Housing units provided under the demonstration program under this section shall be made available in connection with a comprehensive program of services and incentives under subsections (h) and (i), in order to prepare participating families for successful transition to the private rental housing market and homeownership within a reasonable period of time.

(b) Coordinating Committee.–

(1) Establishment.–For a public housing agency to be eligible for designation or selection under subsection (d) for participation in the demonstration program, the chief executive officer of each unit of general local government in which the public housing agency is located shall appoint a coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (h).

(2) Membership.–Each coordinating committee shall be composed of 12 members, who shall include, but may not be limited to, the following individuals:

(A) A representative of the chief executive officer of the applicable unit of general local government.

(B) A representative of the applicable public housing agency.

(C) A representative of the regional administrator of the Department of Housing and Urban Development.

(D) A representative of a local resident management corporation.

(E) Not less than 1 individual affiliated with a local agency that administers programs in 1 of the following areas: health, human services, substance abuse, education, economic and business development, law enforcement, and housing.

(F) A representative from among local businesses engaged in housing and real estate.

(G) A representative from among business engaged in real estate financing.

(3) Social service committees.–Each coordinating committee established under this subsection shall establish a subcommittee on social services, which shall, before any action is taken under subsection (e)(1) (with respect to the demonstration program as carried out by the applicable public housing agency), identify the specific services that are required to successfully carry out the demonstration program.

(c) Interagency Cooperation.–The Secretary shall coordinate with the appropriate heads of other Federal agencies as necessary to coordinate the implementation of the demonstration program and endeavor to ensure the delivery of supportive services required under subsection (h).

(d) Scope of Demonstration Program.–

(1) Participating public housing agencies.–The Secretary shall carry out the demonstration program with respect to public housing for families administered by the Housing Authority of the City of Chicago, in the State of Illinois. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 3 other public housing agencies.

(2) Participating public housing units.–Over the term of the demonstration, the demonstration may be applied to not more than 15 percent of the total number of public housing units for families administered by each participating public housing agency.

(3) Nondisplacement.–No person who is a tenant of public housing during the term of the demonstration program may be involuntarily relocated or displaced under the demonstration program.

(e) Housing Development.–

(1) Use of public housing operating subsidies.–For the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing, under the demonstration program the Secretary shall amend the annual contributions contract between the Secretary and each participating public housing agency as the Secretary determines appropriate to permit the public housing agency to utilize operating subsidy amounts allocated to the agency under section 9 of the United States Housing Act of 1937 with respect to newly constructed or rehabilitated housing units that are privately developed and owned. Such units shall be reserved for use under the demonstration program for occupancy by very low-income families as provided under this subsection and subsection (g).

(2) Lease terms.–Operating subsidy amounts shall be provided for the operation of housing under paragraph (1) pursuant to a lease contract between the owner of the housing and the public housing agency, which shall specify–

(A) the number of units to be leased exclusively to the public housing agency for the term of the demonstration program, subject only to the availability of amounts under paragraph (1) or other funds for such purposes; and

(B) the requirements under subsection (f)(6).

(3) Transfer of amounts.–Operating subsidy amounts may be provided for a unit of housing under paragraph (1) only after the execution of a lease under subsection (f)(5) for 1 corresponding public housing unit.

(4) Rental terms.–Units leased by a participating public housing agency under this subsection shall be available only to very low-income families that reside, or have been offered a unit, in public housing administered by the public housing agency and that enter into a voluntary contract under subsection (g)(1). The rental charge for each unit shall be the amount equal to 30 percent of the adjusted income of the resident family (as determined under section 3(b) of the United States Housing Act of 1937), except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of such Act.

(5) Income mix.–Not more than 25 percent of the units in each privately developed housing project under the demonstration program may be leased by a public housing agency pursuant to a lease contract under paragraph (2). The number of units under each such lease may not be less than the number of public housing units that, notwithstanding the

demonstration program, would have been assisted with the operating subsidy amounts made available under such contract, to ensure that there shall be no loss of public housing units.

(6) Coordination with other entities for development of housing.–A participating public housing agency may seek the cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this subsection. Such assistance may include, but is not limited to–

(A) donations of land and write-downs and discounts on land by local governments;

(B) abatement of real estate taxes for specified periods by local, county, or State governments;

(C) assignment of community development block grant funds and loan guarantees made available under title I of the Housing and Community Development Act of 1974;

(D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders;

(E) low-income housing tax credits from State and local governments; and

(F) mortgage revenue bonds from State or local governments.

(7) Determination of location and number of units.–

(A) In general.–A participating public housing agency and the applicable unit of general local government shall jointly determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program carried out by the public housing agency and the number of units to be developed annually, with approval of the legislative body of the local government.

(B) Limitation on number of units.–The total number of newly constructed or rehabilitated units that may be used under this subsection in the demonstration program may not exceed–

(i) for any participating public housing agency with not more than 5,000 public housing units, 15 percent of the number of units administered by the agency;
(ii) for any participating agency with more than 5,000 but not more than 25,000 units, 10 percent of the number of units administered by the agency; and
(iii) for any participating agency with more than 25,000 units, 4 percent of the number of units administered by the agency.

(f) Existing Public Housing.–

(1) In general.–To facilitate the establishment of socioeconomically mixed communities within existing public housing developments, under the demonstration program the Secretary shall authorize participating public housing agencies to lease units in existing public housing projects, as provided in this subsection, to low-income families who are not very low-income families, notwithstanding the provisions of section 16(b) of the United States Housing Act of 1937.

(2) Limitations on public housing residents.–

(A) In general.–Except as provided in subparagraph (B), not more than 25 percent of the units in each public housing project in which units are utilized under the demonstration program may be occupied by low-income families who are not very low-income families. Not less than 75 percent of the units in each such public housing project shall be occupied by very low-income families.

(B) Exception.–Upon determining that a public housing agency has a special need, the Secretary may provide for not more than 50 percent of the units in a public housing project utilized under the demonstration program to be occupied by low-income families who are not very low-income families, and the remainder of the units to be occupied by very low-income families. Such special need may include the need to ensure the successful revitalization of troubled public

housing through establishing a socioeconomically mixed resident population.

(3) Number of units.–The number of such units made available under this subsection by a public housing agency may not exceed the number of units provided under subsection (e) to participating families.

(4) Rental terms.–The rent charged any family occupying a unit made available under this subsection may not, at any time during the demonstration period, exceed the ceiling rent level determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of the United States Housing Act of 1937.

(5) Lease.–A participating public housing agency shall enter into a lease with each family occupying a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may extend the period as provided under subsection (j)(1).

(6) Vacancy.–If, at any time, a participating public housing agency is unable to rent a unit made available under this subsection and the unit has been vacant for a period of 6 months, the agency may–

(A) cancel a lease for 1 unit of housing provided under subsection (e) and recapture any operating subsidy amounts associated with the unit for use with respect to the vacant public housing unit, upon which such public housing unit shall be removed from participation in the demonstration program and made generally available for occupancy as provided under the United States Housing Act of 1937; and

(B) provide the family residing in the housing unit provided under subsection (e) (from which operating subsidy amounts have been recaptured) with assistance under section 8(b) of such Act, subject to the availability of such assistance pursuant to appropriations Acts and notwithstanding any preferences for such assistance under section 8(d)(1)(A)(i) of such Act, and permit the family to remain in the unit.

(g) Contracts With Participating Families.–

(1) In general.–Under the demonstration program, a participating public housing agency shall enter into a contract with each family that will reside in a unit of privately developed housing leased to the agency under subsection (e). Such family shall voluntarily enter into the contract and shall meet the criteria established under paragraph (2). The contract shall be made part of the lease executed between the family and the public housing agency for such unit, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family under the program. The lease shall be for a term of 1 year and shall be renewable upon expiration for a period not to exceed 7 years, except as provided under subsection (j)(1).

(2) Establishment of criteria.–Each public housing agency shall establish criteria for participation of families in the demonstration program. The criteria shall be based on factors that may reasonably be expected to predict the family's ability to successfully complete the requirements of the demonstration program. The criteria shall include–

(A) the status and history of employment of family members;

(B) enrollment of the children in the family in an educational program;

(C) maintenance by the family of the family's previous dwelling;

(D) ability of adult family members to complete training for long-term employment;

(E) the existence and seriousness of any criminal records of family members; and

(F) the status and history of substance abuse of family members.

(3) Continued residence.–Continued residency of families in housing provided under subsection (e) shall be contingent upon compliance with standards established by the participating public housing agency, which shall include–

(A) all members of the family remaining drug-free;

(B) no member of the family engaging in any criminal activity;

(C) each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent thereof; and

(D) family members participating in the support services and counseling under subsection (h).

(h) Provision of Supportive Services.–For the entire term of residency of a participating family in housing provided under subsection (e), the public housing agency shall ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation under subsection (g)(1). The public housing agency shall provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities. Services shall include the following:

(1) Remedial education.

(2) Education for completion of high school.

(3) Job training and preparation.

(4) Child care.

(5) Substance abuse treatment and counseling.

(6) Training in homemaking skills and parenting.

(7) Family counseling.

(8) Financial counseling services emphasizing planning for homeownership, provided by local financial institutions under the Community Reinvestment Act of 1977, provided under section 106 of the Housing and Urban Development Act of 1968, or otherwise provided.

(i) Economic Advancement of Participating Families.–

(1) Employment.–Under the demonstration program, for the entire term of residency of each participating family in housing provided under subsection (e)–

(A) the head of the family shall be required to be employed on a full-time basis, except that if the head of the family becomes unemployed, the public housing agency shall review the individual case to determine if mitigating factors, such as involuntary loss of employment, warrant continuing the family's participation in the demonstration program; and

(B) the public housing agency shall ensure the provision of counseling to assist family members in gaining, advancing in, and retaining employment.

(2) Rent increases.–During the 1-year period beginning upon the residency of a participating family in housing provided under subsection (e), the amount of rent charged the participating family may not be increased on the basis of any increase in the earned income of the family, until such earned income exceeds 80 percent of the median family income for the area.

(3) Escrow savings accounts.–

(A) Purpose and establishment.–To ensure that participating families acquire the financial resources necessary to complete

a successful transition from assisted rental housing to homeownership or other private housing, under the demonstration program each participating public housing agency shall establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name.

(B) Periodic deposits.–For the entire term of a participating family's residency in housing provided under subsection (e) the public housing agency shall deposit in the account established for the family under subparagraph (A) a percentage of the monthly rent charged the family, which percentage shall be established in the contract of participation under subsection (g)(1). Any rent increases charged because of increases in the earned income of the family shall also be deposited into the escrow account.

(C) Access to amounts.–A participating family may withdraw amounts in the family's escrow account only upon successful completion of participation in the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the participating public housing agency. A participating family that has committed violations referred to under subsection (j)(2)(B) shall forfeit access to such amounts.

(4) Treatment of increased income.–Any increase in the earned income of a participating family during residency in housing provided under subsection (e) may not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(j) Conclusion of Participation.–

(1) 7-year term.–Each family residing in housing provided under subsection (e) or (f) shall terminate residency in housing not later than the expiration of the 7-year period beginning on the commencement of such residency. Notwithstanding the preceding sentence, a public housing agency shall extend the period for any family that requests extension of the period–

(A) because the family is not prepared to enter a program for homeownership or to secure any other form of private housing; or

(B) for other good cause.

(2) Incompletion.–

(A) In general.–Except as provided in subparagraph (B), if a participating family is unable to successfully fulfill the requirements under the demonstration program, the public housing agency shall offer the family a comparable public housing unit in a project administered by the agency (notwithstanding any preference for residency in public housing under section 6(c)(4)(A)(i) of the United States Housing Act of 1937), or assistance under section 8 of such Act (subject to availability of amounts provided under appropriations Acts and notwithstanding any preference for such assistance under section 8(d)(1)(A)(i) of such Act).

(B) Exception.–Subparagraph (A) shall not apply to any participating family that has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or that has been exempted from such requirement by the public housing agency for other good cause.

(k) Reports to Congress.–

(1) Interim report.–Upon the expiration of each 2-year period during the term of the demonstration, the first such period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section.

(2) Final report.–Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program under subsection (n), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section. The report shall also include findings and recommendations

for any legislative action appropriate to establish a permanent program based on the demonstration program.

(l) Definitions.–For purposes of this section:

(1) The term "coordinating committee" means a local coordinating committee established under subsection (b)(1).

(2) The term "demonstration program" means the program established by the Secretary under this section.

(3) The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of findings by the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "operating subsidy amounts" means assistance for public housing provided through the performance funding system under section 9 of the United States Housing Act of 1937.

(5) The term "participating family" means a family that is residing in a housing unit provided under subsection (e).

(6) The term "participating public housing agency" means a public housing agency with respect to which the Secretary carries out the demonstration program under this section.

(7) The terms "public housing agency", "public housing", and "project" have the meanings given such terms under section 3(b) of the United States Housing Act of 1937.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(m) Regulations.–The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(n) Termination of Demonstration Program.–The demonstration program under this section shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act.

SEC. 523. ENERGY EFFICIENCY DEMONSTRATION.

(a) Establishment.–The Secretary of Housing and Urban Development shall carry out a demonstration program to encourage the use of private energy service companies in accordance with section 118(a) of the Housing and Community Development Act of 1987. The Secretary shall provide technical assistance to 5 public housing agencies to demonstrate the opportunities for energy cost reduction in 5 public housing projects through energy services contracts. Not later than 90 days after the date of the enactment of this Act, the Secretary shall establish such selection criteria for this demonstration as the Secretary deems appropriate after consultation with representatives of public housing agencies and energy efficiency organizations.

(b) Report.–As soon as practicable after the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section. The Secretary shall disseminate such report, to the extent practicable, to other public housing agencies.

SEC. 524. STUDY OF PUBLIC HOUSING FUNDING SYSTEM.

The Secretary of Housing and Urban Development shall conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department of Housing and Urban Development in housing assisted under section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program", released by the Department's Office of Policy, Development and Research in May 1982, and shall update such study as may be necessary. The Secretary shall submit a report to the Congress not later than 12 months after the date of the enactment of this Act detailing the findings of the study conducted under this section.

SEC. 525. STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies (in this section referred to as "PHA's"). In analyzing such alternatives, the Secretary shall examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternative, means of (1) providing for tenant participation in the release of such capitated payments to PHA's; (2) providing financial incentives for PHA overall performance and efficiency; (3) designating certain PHA's as distressed and eligible for special Federal assistance; (4) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (5) calculating annual inflation-based increases in capitated Federal payments. The report shall be submitted to the Congress not later than 12 months after the date of the enactment of this Act.

SEC. 526. GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT.

The Comptroller General of the United States shall conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under the United States Housing Act of 1937. Under the study the Comptroller General shall–

(1) analyze and evaluate different methods of financing and structuring a program to develop public housing and of coordinating such program with local housing strategies; and

(2) evaluate the effectiveness of developing public housing units by coordinating the low-income housing tax credit program with the development of public housing.

The Comptroller General shall submit a report to the Congress regarding the findings and conclusions of the study not later than 12 months after the date of the enactment of this Act.

SEC. 527. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of this subtitle that modify the public housing program under title I of the United States Housing Act of 1937 shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that sections 502 and 510 shall not apply.

Subtitle B–Low-Income Rental Assistance

SEC. 541. DESIGNATION OF CERTIFICATE AND VOUCHER PROGRAMS.

(a) Certificate Program.–Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended by

striking "(b)(1)" and inserting "(b) Rental Certificates and Other Existing Housing Programs.–".

(b) Voucher Program.–Section 8(o) of the United States Housing Act of 1937 (42 U.S.C 1437f(o)) is amended by inserting "Rental Vouchers.–" after "(o)".

SEC. 542. DRUG-RELATED RENT ADJUSTMENTS.

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "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.".

SEC. 543. TENANT RENT CONTRIBUTIONS UNDER TENANT-BASED CERTIFICATE PROGRAM.

(a) Exception to General Rule.–Section 8(c)(3) of the United States Housing Act of 1937 is amended–

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) A family receiving tenant-based rental assistance under subsection (b)(1) may pay a higher percentage of income than that specified under section 3(a) of this Act if–

"(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

"(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, and other appropriate family expenses.

"(ii) A public housing agency shall not approve such excess rentals for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1). A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

"(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.".

(b) Housing Strategy.–The second sentence of section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)) is amended by–

(1) inserting "(A)" after "fair market rental" the second place it appears; and

(2) by striking "a local housing assistance plan" and all that follows through the end of the sentence and inserting the following: "a housing strategy as defined in section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**, 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).".

SEC. 544. OPT-OUTS.

Section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended–

(1) by inserting at the end of the first sentence the following new sentence: "The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."; and

(2) by inserting before the final sentence the following new sentence: "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision.".

SEC. 545. PREFERENCE RULES.

(a) Certificate Program.–Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall–

"(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such assistance) solely because the family resides in public housing;

"(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (V) achieving other objectives of national housing policy as affirmed by Congress; and

"(iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist);"; and

(2) Voucher Program.–Section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)), as amended by the preceding provisions of this Act, is further amended–

(A) by inserting "(A)" after "(3)";

(B) by striking "(A)" and inserting "(i)";

(C) by striking "(B)" and inserting "(ii)";

(D) by striking "(C)" and inserting "(iii)";

(E) by striking "(D)" and inserting "(iv)";

(F) by paragraphing and inserting "(B)" after the first sentence;

(G) by inserting "(including families that are homeless or living in a shelter for homeless families)" after "substandard housing"; and

(H) by adding at the end the following new sentences: "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2); (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in subsection (f)(5)) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).".

(c) Section 8 New Construction.–With respect to housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and projects financed under section 202 of the Housing Act of 1959, notwithstanding any tenant selection criteria under a contract between the Secretary of Housing and Urban Development and an owner of such housing pursuant to the first sentence of such section–

(1) for not less than 70 percent of units that become available in the housing, the tenant selection criteria for such housing shall give preference to families which occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under such section; and

(2) the system of local preferences established under section 8(d)(1)(A)(ii) by the public housing agency for the jurisdiction within which the housing is located the tenant shall apply to any remaining units that become available in the housing, to the extent that such preferences are applicable with respect to any tenant eligibility limitations for the housing.

SEC. 546. TENANT PROTECTIONS.

Section 8(d)(1)(B) of the United States Housing Act (42 U.S.C. 1437f(d)(1)(B)) is amended–

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following new clauses:

"(iii) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, 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; and

"(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.".

SEC. 547. REVISIONS TO PROJECT-BASED CERTIFICATE PROGRAM.

(a) Tenant Selection.–Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income families; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection.".

(b) Project-Basing of Certificates.–Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine which public housing agencies have, in providing assistance in such year, reached the 15 percent limitations contained in subparagraphs (A) and (B), and shall report to the Congress on the results of such survey.".

(c) Term of Assistance.–Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended to read as follows:

"(C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner's successors in interest.".

SEC. 548. SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

(a) Definition of Owner.–Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by striking "newly constructed or substantially rehabilitated dwelling units as described in this section" and inserting "dwelling units".

(b) Program Requirements.–Section 8(a) of the United States Housing Act of 1937 (42 U.S.C. 1437f(a)) is amended by adding at the end the following: "A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.".

SEC. 549. DEFINITIONS OF PARTICIPATING JURISDICTION AND DRUG-RELATED CRIMINAL ACTIVITY.

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended–

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(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 **NationalAffordableHousingAct**; and

"(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 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 550. REVISIONS TO VOUCHER PROGRAM.

(a) Reasonableness of Rents.–Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(10)(A) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section (b). A public housing agency shall, at the request of a family assisted under this subsection, assist such family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit.".

(b) Documentation of Excessive Rent Burdens.–

(1) Data.–The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the the United States Housing Act of 1937, which data shall include the share of family income paid toward rent.

(2) Report.–Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act. The report shall set forth data in appopriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

(3) Availability of data.–The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.

(c) Eligibility for Use With Mobile Homes.–Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(11)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist low-income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family. In carrying out this paragraph the Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts

to make such assistance payments to the owners of such real property.

"(B)(i) A contract entered into pursuant to this subparagraph shall establish the rent (including maintenance and management charges) for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.

"(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family's monthly adjusted income is exceeded by the sum of–

"(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the amount by which the rent for the property exceeds 10 percent of the family's monthly income.

"(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.

"(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.

"(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.".

SEC. 551. PORTABILITY OF CERTIFICATES AND VOUCHERS.

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)(1) is amended by striking "the same, or a contiguous," and inserting "the same State, or the same or a contiguous".

SEC. 552. RENEWAL OF EXPIRING CONTRACTS.

(a) In General.–Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(w) Renewal of Expiring Contracts.–Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.".

(b) Short-Term Contracts.–Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the first sentence the following: "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.".

SEC. 553. ASSISTANCE TO PROMOTE FAMILY UNIFICATION.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(x) Family Unification.–

"(1) Increase in budget authority.–The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $35,000,000 on or after October 1, 1990, by $35,000,000 on or after October 1, 1991.

"(2) Use of funds.–The amounts made available under this subsection shall be used only in connection with housing certificate assistance under section 8 on behalf of any family (A) who is otherwise eligible for such assistance, and (B) 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.

"(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 section 8.

"(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.".

SEC. 554. FAMILY SELF-SUFFICIENCY.

(a) In General.–Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 23. FAMILY SELF-SUFFICIENCY PROGRAM.

"(a) Purpose.–The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) Establishment of Program.–

"(1) Required programs.–Except as provided in paragraph (2), the Secretary shall carry out a program under which each

public housing agency that administers assistance under subsection (b) or (o) of section 8 or makes available new public housing dwelling units–

"(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section; and

"(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section.

Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

"(2) Exception.–The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez **NationalAffordableHousingAct**) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include–

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

"(3) Scope.–Each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

"(A) Certificate and voucher assistance under section 8 (b) and (o), in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

"(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

"(c) Contract of Participation.–

"(1) In general.–Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this section if the family fails to comply with the requirements under the contract.

"(2) Supportive services.–A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include–

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management; and

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) Term and extension.–Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) Employment and counseling.–The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) Maximum Rents and Escrow Savings Accounts.–

"(1) Maximum rents.–During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

"(2) Escrow savings accounts.–For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) Effect of Increases in Family Income.–Any increase in the earned income of a family during the participation of the

family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) Program Coordinating Committee.–

"(1) Functions.–Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) Membership.–The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) Action Plan.–

"(1) Required submission.–The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) Development of plan.–In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) Contents of plan.–The Secretary shall require that the action plan contain at a minimum–

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) Allowable Public Housing Agency Administrative Fees and Costs.–

"(1) Section 8 fees.–The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

"(2) Performance funding system.–Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 9(c) for each of fiscal years 1991 and 1992, $25,000,000 is authorized to be used for costs under this paragraph.

"(i) Public Housing Agency Incentive Award Allocation.–

"(1) In general.–The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) Criteria.–The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) Use.–Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

"(4) Reservation of budget authority.–Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 8 that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 5(a)(2) (excluding amounts for major reconstruction of obsolete projects).

"(j) On-Site Facilities.–Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

"(k) Flexibility.–In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow

public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(l) Reports.–

"(1) To Secretary.–Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include–

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD annual report.–The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

"(m) GAO Report.–

"(1) In general.–The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

"(2) Timing.–The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(n) Definitions.–As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

"(o) Effective Date and Regulations.–

"(1) Regulations.–Not later than the expiration of the 180-day period beginning on the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

"(2) Applicability to indian public housing.–In accordance with section 201(b)(2), the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) GAO Study on Linking Federal Housing Assistance to Economic Self-Sufficiency Programs.–

(1) In general.–The Comptroller General of the United States shall submit to the Congress, not later than 18 months after the date of the enactment of this Act, a report–

(A) evaluating the policy and administrative implications of requiring State and local governments to require participation in an economic self-sufficiency program as a condition of the receipt of rental assistance under section 8 of the United States Housing Act of 1937 and public housing assistance;

(B) determining the additional costs to public housing agencies under such programs and recommending a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Family Self-Sufficiency Program under section 23 of the United States Housing Act of 1937; and

(C) examining how housing and social service policies affect beneficiaries, particularly persons receiving public assistance, when such beneficiaries gain employment and experience a rise in income.

(2) Other contents.–The report under this subsection shall include–

(A) an evaluation of Federal programs to link housing and supportive services for the promotion of economic self-sufficiency, including programs that are being or have been administered by the Secretary of Housing and Urban Development (such as Project Self-Sufficiency, Operation Bootstrap, and the Public Housing Comprehensive Transition Demonstration);

(B) an analysis of the extent to which public housing agencies can reasonably and effectively obtain supportive services in connection with the Family Self-Sufficiency Program and other programs that link supportive services to Federal housing assistance;

(C) an assessment of the policy and administrative implications of allocating section 8 rental assistance and public housing assistance only to localities that have a plan for providing incremental rental assistance only in conjunction with economic self-sufficiency programs; and

(D) an analysis of the extent to which existing laws regarding housing and other programs create disincentives to upward income mobility and recommendations for legislative changes to remove such disincentives.

(3) Consultation.–In preparing the report under this subsection, the Comptroller General shall consult with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, other appropriate Federal officials, appropriate State and local officials, other knowledgeable individuals, and national and other organizations representing eligible beneficiaries, State and local welfare and employment agencies, public housing agencies, business, public and private education or training institutions, and other service providers.

(4) Definition of economic self-sufficiency program.–For purposes of this subsection, the term "economic self-sufficiency

program" means a public or private program designed to enable economically disadvantaged individuals achieve economic independence and includes programs authorized under the Job Training Partnership Act and the Family Support Act of 1988.

SEC. 555. INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS.

Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.

SEC. 556. DISTRIBUTION OF SECTION 8 CERTIFICATES.

Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended–

(1) by inserting "(i)" after "(d)(1)(A)"; and

(2) by adding at the end the following new clause:

"(ii) Assistance under section 8(b)(1) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(b)(1) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, 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 **NationalAffordableHousingAct**.".

SEC. 557. SETTLEMENT AGREEMENT REGARDING CERTAIN SECTION 8 ASSISTANCE.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, from any amounts provided under section 5(c) of the United States Housing Act of 1937 for use in fiscal year 1991 under section 8 of such Act, provide such assistance to the City of Norfolk, in the State of Virginia, in an amount necessary to provide 186 certificates under subsection (b) of such section 8. The assistance provided under this section shall be in satisfaction of the settlement agreement dated October 6, 1981, in the case of Robin Hood Tenants Association v. Vincent J. Thomas, Jr. (civil action no. 80–501–N), in the Norfolk Division of the United States District Court for the Eastern Division of Virginia.

SEC. 558. GAO STUDY REGARDING FAIR MARKET RENT CALCULATION.

The Comptroller General of the United States shall conduct a study to examine fair market rentals under section 8(c)(1) of the United States Housing Act of 1937 and determine the feasibility and effects of establishing fair market for areas that are geographically smaller than market areas under such section which are wholly contained within such market areas. The study shall examine the following:

(1) Whether establishment of such smaller fair market areas will more accurately reflect rent variations within market areas and improve housing opportunities for disadvantaged minorities and families with special needs, provide very low-income families with better access to employment and education opportunities, or otherwise further the objectives of national housing policy as affirmed by the Congress, which shall be determined for not less than 3 communities, including Wilmington, Delaware, and Columbus, Ohio.

(2) The inflationary effects of fair market rentals under existing law within not less than 3 communities, including

Oklahoma City, Oklahoma, and Boston, Massachusetts.

(3) The extent of geographical dispersion of families in particular communities receiving tenant-based assistance under such section 8, describing the differing characteristics of areas in which such assistance is used (including the character of neighborhoods, proximity to services, employment, and transportation, and quality of housing stock), which shall be determined for not less than 3 communities including Washington, District of Columbia, and Seattle, Washington.

The Comptroller General shall submit a report to the Congress not later than 18 months after the date of the enactment of this Act regarding the findings and conclusions under the study.

SEC. 559. STUDY OF SECTION 8 UTILIZATION RATES.

(a) Study.–The Secretary of Housing and Urban Development shall conduct a study of the reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available by the Secretary for such areas under the certificate and voucher programs under section 8 of the United States Housing Act of 1937. The study shall examine such rates and provide information regarding such rates based on the household size, age of household members, race of household members, income of households, welfare status of households, number of children in a household.

(b) Report.–The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the study under this section. The report shall contain a conclusion of the Secretary, for each city or locality studied, whether the success or failure in utilizing assistance under such section 8 relates to the existence of a local problem or a programmatic failure with respect to the certificate or voucher program.

SEC. 560. REPORT ON RESIDUAL RECEIPTS ACCOUNTS IN SECTION 8 AND SECTION 202 HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of a statistically significant sample of housing assisted under section 8 of the United States Housing Act of 1937 and section 202 of the Housing Act of 1959 to determine the amounts that are contained in existing residual receipts accounts. The Secretary shall identify the existing rules and regulations governing the permissible uses of such accounts. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

SEC. 561. FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM.

(a) Study.–The Secretary of Housing and Urban Development shall carry out a study to determine the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under section 8(o) of the United States Housing Act of 1937.

(b) Consultation.–In carrying out the study under this section, the Secretary shall consult with Indian housing authorities.

(c) Report.–The Secretary shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the findings and conclusions of the Secretary as a result of the study under this section.

Subtitle C–General Provisions and Other Assistance Programs

SEC. 571. LOW-INCOME HOUSING AUTHORIZATION.

(a) Aggregate Budget Authority.–Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: “The aggregate amount of budget authority that may be

obligated for assistance referred to in paragraph is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991.".

(b) Utilization of Housing Budget Authority.–Subparagraphs (A) and (B) of section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) are amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating–

"(i) for public housing grants under subsection (a)(2), not more than $742,100,000, of which amount not more than $228,000,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,880,000,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o).

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,200,000,000;

"(iv) for comprehensive improvement assistance grants under section 14(k), not more than $2,150,000,000, of which not more than $3,000,000 shall be available for resident homeownership financial assistance under section 21(a)(2)(B);

"(v) for assistance under section 8 for property disposition, not more than $420,000,000;

"(vi) for assistance under section 8 for loan management, not more than $160,000,000;

"(vii) for extensions of contracts expiring under section 8, not more than $7,735,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(viii) for amendments to contracts under section 8, not more than $1,620,500,000;

"(ix) for public housing lease adjustments and amendments, not more than $207,300,000; and

"(x) for public housing replacement activities, not more than $79,100,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1992, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating–

"(i) for public housing grants under subsection (a)(2), not more than $812,300,000, of which amount not more than $237,800,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,960,800,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o).

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $2,242,500,000;

"(iv) for assistance under section 8 for property disposition, not more than $438,100,000;

"(v) for assistance under section 8 for loan management, not more than $166,900,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,100,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(vii) for amendments to contracts under section 8, not more than $1,690,200,000;

"(viii) for public housing lease adjustments and amendments, not more than $216,100,000; and

"(ix) for public housing replacement activities, not more than $82,500,000.".

SEC. 572. LOW-INCOME TERM.

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended–

(1) by striking "lower income families" each place it appears and inserting "low-income families",

(2) by striking "lower income housing" each place it appears and inserting "low-income housing".

SEC. 573. DEFINITIONS UNDER UNITED STATES HOUSING ACT OF 1937.

(a) Family.–Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(B)(3)) is amended–

(1) in the first sentence, by striking "(D)" and all that follows and inserting the following: "(D) and any other single persons. In no event may any single person under clause (D) be provided a housing unit assisted under this Act of 2 bedrooms or more.";

(2) by striking the second sentence; and

(3) by striking the third from last sentence.

(b) Income.–Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting before the period at the end the following: ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

(c) Adjusted Income.–

(1) Allowance for dependents.–Section 3(b)(5)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(A)) is amended by striking "$480" and inserting "$550".

(2) Allowance for medical expenses.–Section 3(b)(5)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(C)) is amended–

(A) in clause (i), by striking "elderly"; and

(B) by striking "and" at the end.

(3) Allowances for working families and child support and alimony payments.–Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended–

(A) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(B) by adding at the end the following new subparagraphs:

"(E) 10 percent of the earned income of the family; and

"(F) any payment made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household, except that the amount excluded under this subparagraph shall not exceed the lesser of (i) the amount that such family member has a legal obligation to pay; or (ii) $550 for each individual for whom such payment is made.".

(d) Determination of Income Limits.–Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended by inserting after the period at the end the following: "In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester County, in the State of New York, as if such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester County, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester County.".

(e) Budget Compliance.–The amendments made by subsections (b) an (c) shall apply only to the extent approved in appropriations Acts.

(f) Effective Date.–The Secretary shall issue regulations implementing subsections (a) and (d) the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulations may not take effect until after September 30, 1991.

SEC. 574. EFFECT OF FOSTER CARE CHILDREN IN DETERMINING FAMILY COMPOSITION AND SIZE.

Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following new sentence: "The temporary absence of a child from the home due to placement in foster care shall not be considered in considering family composition and family size.".

SEC. 575. EXEMPTION FROM HOUSING DEVELOPMENT GRANT CONSTRUCTION COMMENCEMENT REQUIREMENTS.

(a) In General.–Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 and subject to approval in appropriations Acts, the county of Santa Cruz, in the State of California, may not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grant amounts referred to in subsection (b) if during the 6-month period beginning on the date of the enactment of this Act the county (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

(b) Description of Grant Amounts.–The grant amounts referred to in subsection (a) are the amounts awarded to the county of Santa Cruz, in the State of California, on October 1, 1987, under section 17(d) of the United States Housing Act of 1937, for the purpose of providing 37 housing units for low- and very low-income families at the Murphy's Crossing housing development (project no. CA030HG701).

SEC. 576. CONSULTATION REGARDING FOSTER CARE CHILDREN IN DEVELOPMENT OF HOUSING ASSISTANCE PLAN.

Section 213(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(a)(5)) is amended by inserting after the period at the end the following: "In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to

determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.".

SEC. 577. HOUSING COUNSELING.

(a) Counseling Services.–The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows and inserting the following: "except that for such purposes there are authorized to be appropriated $3,600,000 for fiscal year 1991 and $3,700,000 for fiscal year 1992.".

(b) Emergency Homeownership Counseling.–

(1) Authorization of appropriations.–The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There is authorized to be appropriated to carry out this section $6,700,000 for fiscal year 1991 and $7,000,000 for fiscal year 1992, of which amounts $2,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(2) Extension of program.–Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(3) Notification of availability of homeownership counseling.–Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended to read as follows:

"(5) Notification of availability of homeownership counseling.–

"(A) In general.–Except as provided in subparagraph (C), if any eligible homeowner fails to pay any amount by the date the amount is due under a home loan, the creditor of the loan shall notify the homeowner of the availability of any homeownership counseling offered by the creditor and, as a supplement to counseling provided by the creditor, shall notify the homeowner of 1 of the following:

"(i) The availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.
"(ii) The toll-free telephone number described in subparagraph (D)(i).

"(B) Deadline for notification.–The notification required in subparagraph (A) shall be made–

"(i) in a manner approved by the Secretary; and
"(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

"(C) Exceptions.–Notification under subparagraph (A) shall not be required with respect to any loan–

"(i) insured or guaranteed under chapter 37 of title 38, United States Code; or
"(ii) for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

"(D) Administration and compliance.–The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will–

"(i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations that–
"(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and
"(II) serve the area in which the residential property of the homeowner is located;
"(ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

"(iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).

"(E) Report.–The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.".

(c) Prepurchase and Foreclosure-Prevention Counseling Demonstration.–Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

"(d) Prepurchase and Foreclosure-Prevention Counseling Demonstration.–

"(1) Purposes.–The purpose of this subsection is–

"(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

"(B) to encourage responsible and prudent use of such federally insured home mortgages;

"(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and

"(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

"(2) Authority.–The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

"(3) Grants.–Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

"(4) Qualified nonprofit organizations.–The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

"(5) Prepurchase counseling.–

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

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

"(B) Eligibility for counseling.–A homebuyer shall be eligible for prepurchase counseling under this paragraph if–

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

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

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

"(i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and
"(ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.
"(C) Coordination with emergency homeownership counseling program.–The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

"(D) Eligibility for counseling.–A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if–

"(i) the home owned by the homeowner is subject to a qualified mortgage; and
"(ii) such home is located in a counseling target area.
"(7) Scope of demonstration program.–

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

"(B) Counseling target areas.–Each counseling target area shall consist of a group of contiguous census tracts–

"(i) the population of which is greater than 50,000;
"(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);
"(iii) in which the average age of existing housing is greater than 20 years; and
"(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.
"(C) Mortgage characteristics.–In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

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

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

"(8) Evaluation.–Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General (for purposes of the study and report under paragraph (9)) may require.

"(9) GAO study and report.–

"(A) Study.–During the 12-month period ending on the termination date under paragraph (13), the Comptroller General of the United States shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include–

"(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;
"(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and
"(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act and contributing to default and foreclosure under such program.

"(B) Report.–The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include–

"(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraph;
"(ii) an assessment of the effectiveness of the counseling under the program in preventing default and foreclosure, based on comparison between counseling target areas and control areas; and
"(iii) a recommendation of whether a permanent counseling program involving prepurchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgages.

"(10) Definitions.–For purposes of this subsection:

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

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

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

"(D) The term 'displaced homemaker' means an individual who–

"(i) is an adult;
"(ii) has not worked full-time, full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and
"(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

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

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

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

"(H) The term 'first-time homebuyer' means an individual who–

"(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;
"(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or
"(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

"(I) The term 'home' includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(J) The term 'metropolitan area' means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

"(K) The term 'qualified mortgage' means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

"(L) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(M) The term 'single parent' means an individual who–

"(i) is unmarried or legally separated from a spouse; and
"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or
"(II) is pregnant.

"(11) Regulations.–The Secretary may issue any regulations necessary to carry out this subsection.

"(12) Authorization of appropriations.–There are authorized to be appropriated to carry out this subsection $350,000 for fiscal year 1991 and $365,000 for fiscal year 1992.

"(13) Termination.–The demonstration program under this subsection shall terminate at the end of fiscal year 1994.".

SEC. 578. FLEXIBLE SUBSIDY PROGRAM.

(a) Extension.–Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1991" and inserting "September 30, 1992".

(b) Authorization.–Section 201(j) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)) is amended by adding at the end the following paragraph:

"(5) There are authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $50,000,000 for fiscal year 1991 and $52,200,000 for fiscal year 1992.".

(c) Limitation.–Section 201(j)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "and shall not (except as provided in Public Law 100–4–4 (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose".

SEC. 579. STREAMLINED PROPERTY DISPOSITION REQUIREMENTS FOR UNSUBSIDIZED MULTIFAMILY HOUSING PROJECTS.

(a) Goals.–Section 203(a)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "or vacant".

(b) Actions.–Section 203(d) of the Housing and Community Development Amendments of 1978 is amended–

(1) in paragraph (1)(B), by striking "or are vacant (which units shall be made available for such families as soon as possible)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In the case of multifamily housing projects (other than subsidized or formerly subsidized projects) that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide vouchers or certificates under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that the requirements under subsection (e) have been complied with and there is available in the area an adequate supply of habitable affordable housing for low-income families.".

SEC. 580. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

Section 184(c)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z–11 note) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "at the end of September 30, 1991".

SEC. 581. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

(a) In General.–The Public Housing Drug Elimination Act of 1988 (chapter 2 of subtitle C of title V of Public Law 100–690) is amended to read as follows:

"CHAPTER 2–PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the "Public and Assisted Housing Drug Elimination Act of 1990".

"SEC. 5122. CONGRESSIONAL FINDINGS.

"The Congress finds that–

"(1) the Federal Government has a duty to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs;

"(2) public and other federally assisted low-income housing in many areas suffers from rampant drug-related crime;

"(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants;

"(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

"(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted low-income housing, particularly in light of the recent reductions in Federal aid to cities.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies (including Indian Housing Authorities) and private, for-profit and nonprofit owners of federally assisted low-income housing for use in eliminating drug-related crime.

"SEC. 5124. ELIGIBLE ACTIVITIES.

"Grants under this chapter may be used in public housing or other federally assisted low-income housing projects for–

"(1) the employment of security personnel;

"(2) reimbursement of local law enforcement agencies for additional security and protective services;

"(3) physical improvements which are specifically designed to enhance security;

"(4) the employment of one or more individuals–

"(A) to investigate drug-related crime on or about the real property comprising any public or other federally assisted low-income housing project; and

"(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

"(6) programs designed to reduce use of drugs in and around public or other federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs; and

"(7) providing funding to nonprofit public housing resident management corporations and resident councils to develop security and drug abuse prevention programs involving site residents.

"SEC. 5125. APPLICATIONS.

"(a) In General.–To receive a grant under this chapter, a public housing agency or an owner of federally assisted low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of the housing administered or owned by the applicant for which the application is being submitted.

"(b) Criteria.–Except as provided by subsections (c) and (d) the Secretary shall approve applications under this chapter based exclusively on–

"(1) the extent of the drug-related crime problem in the public or federally assisted low-income housing project or projects proposed for assistance;

"(2) the quality of the plan to address the crime problem in the public or federally assisted low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a

period of several years;

"(3) the capability of the applicant to carry out the plan; and

"(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

"(c) Federally Assisted Low-Income Housing.–In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect–

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted low-income housing, or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted low-income housing.

"(d) High Intensity Drug Trafficking Areas.–In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary may consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.

"SEC. 5126. DEFINITIONS.

"For the purposes of this chapter:

"(1) Controlled substance.–The term 'controlled substance' has the meaning given such term in section 102 of the Controlled Substance Act (21 U.S.C. 802).

"(2) Drug-related crime.–The term 'drug-related crime' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

"(3) Secretary.–The term 'Secretary' means the Secretary of Housing and Urban Development.

"(4) Federally assisted low-income housing.–The term 'federally assisted low-income housing' means housing assisted under–

"(A) section 221(d)(3), section 221(d)(4), or 236 of the National Housing Act;

"(B) section 101 of the Housing and Urban Development Act of 1965; or

"(C) section 8 of the United States Housing Act of 1937.

"SEC. 5127. IMPLEMENTATION.

"The Secretary shall issue regulations to implement this chapter within 180 days after the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"SEC. 5128. REPORTS.

"The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and any change in the incidence of drug-related crime in projects assisted under this chapter.

"SEC. 5129. MONITORING.

"The Secretary shall audit and monitor the programs funded under this chapter to ensure that assistance provided under this chapter is administered in accordance with the provisions of this chapter.

"SEC. 5130. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.–There is authorized to be appropriated to carry out this chapter $160,000,000 for fiscal year 1991 and $166,900,000 for fiscal year 1992. Any amount appropriated under this section shall remain available until expended.

"(b) Set-Aside for Assisted Housing.–Of any amount made available in any fiscal year to carry out this chapter, not more than 6.25 percent of such amount shall be available for grants for federally assisted, low-income housing.".

(b) Conforming Amendments.–The table of contents for title V of Public Law 100–690 is amended by striking the items relating to chapter 2 and inserting the following new items:

"CHAPTER 2–Public and Assisted Housing Drug Elimination

"Sec. 5121. Short title.

"Sec. 5122. Congressional findings.

"Sec. 5123. Authority to make grants.

"Sec. 5124. Eligible activities.

"Sec. 5125. Applications.

"Sec. 5126. Definitions.

"Sec. 5127. Implementation.

"Sec. 5128. Reports.

"Sec. 5129. Monitoring.

"Sec. 5130. Authorization of appropriations.".

SEC. 582. STUDY OF PRIVATE NONPROFIT INITIATIVES.

(a) Study.–The Secretary of Housing and Urban Development shall conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

(b) Report.–The Secretary shall submit a report to the Congress regarding the findings of this study not later than 1 year after the date of the enactment of this Act.

SEC. 583. EXTENSION OF CAPITAL ASSESSMENT STUDY.

Section 204(c)(1) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z-1a note) is amended by striking "Not later than one year after the date of enactment of this Act" and inserting "Not later than March 1, 1992".

TITLE VI–PRESERVATION OF AFFORDABLE RENTAL HOUSING

Subtitle A–Prepayment of Mortgages Insured Under National Housing Act

SEC. 601. PREPAYMENT OF MORTGAGES.

(a) In General.–Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715*l* note) are amended to read as follows:

"Subtitle A–Short Title

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Low-Income Housing Preservation and Resident Homeownership Act of 1990'.

"Subtitle B–Prepayment of Mortgages Insured Under National Housing Act

"SEC. 211. GENERAL PREPAYMENT LIMITATION.

"(a) Prepayment and Termination.–An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224.

"(b) Foreclosure.–A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

"(c) Effect of Unauthorized Prepayment.–Any prepayment of a mortgage on eligible low-income housing or termination of the mortgage insurance on such housing not in compliance with the provisions of this subtitle shall be null and void and any low-income affordability restrictions on the housing shall continue to apply to the housing.

"SEC. 212. NOTICE OF INTENT.

"(a) Filing With the Secretary.–An owner of eligible low-income housing that intends to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, extend the low-income affordability restrictions of the housing in accordance with section 219, or transfer the housing to a qualified purchaser in accordance with section 220, shall file with the Secretary a notice indicating such intent in the form and manner as the Secretary shall prescribe.

"(b) Filing With the State or Local Government, Tenants, and Mortgagee.–The owner, upon filing a notice of intent under this section, shall simultaneously file the notice of intent with the chief executive officer of the appropriate State or local

government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.

"(c) Ineligibility for Filing.–An owner shall not be eligible to file a notice of intent under this section if the mortgage covering the housing–

"(1) falls into default on or after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**; or

"(2)(A) fell into default before, but is current as of, such date; and

"(B) the owner does not agree to recompense the appropriate Insurance Fund, in the amount the Secretary determines appropriate, for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

The Secretary shall carry out this subsection in a manner consistent with the provisions of section 203 of the Housing and Community Development Amendments of 1978.

"SEC. 213. APPRAISAL AND PRESERVATION VALUE OF ELIGIBLE LOW-INCOME HOUSING.

"(a) Appraisal.–Upon receiving notice of intent regarding an eligible low-income housing project indicating an intent to extend the low-income affordability restrictions under section 219 or transfer the housing under section 220, the Secretary shall provide for determination of the preservation value of the housing, as follows:

"(1) Appraisers.–The preservation value shall be determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. The appraisals shall be conducted not later than 4 months after filing the notice of intent under section 212, and the owner shall submit to the Secretary the appraisal made by the owner's selected appraiser not later than 90 days after receipt of the notice under paragraph (2). If the 2 appraisers fail to agree on the preservation value, and the Secretary and the owner also fail to agree on the preservation value, the Secretary and the owner shall jointly select and jointly compensate a third appraiser, whose appraisal shall be binding on the parties.

"(2) Notice.–Not later than 30 days after the filing of a notice of intent to seek incentives under section 219 or transfer the property under section 220, the Secretary shall provide written notice to the owner filing the notice of intent of–

"(A) the need for the owner to acquire an appraisal of the property under paragraph (1);

"(B) the rules and guidelines for such appraisals;

"(C) the filing deadline for submission of the appraisal under paragraph (1);

"(D) the need for an appraiser retained by the Secretary to inspect the housing and project financial records; and

"(E) any delegation to the appropriate State agency by the Secretary of responsibilities regarding the appraisal.

"(3) Timeliness.–The Secretary may approve a plan of action to receive incentives under section 219 or 220 only based upon an appraisal conducted in accordance with this subsection that is not more than 30 months old.

"(b) Preservation Value.–For purposes of this subtitle, the preservation value of eligible low-income housing appraised under this section shall be–

"(1) for purposes of extending the low-income affordability restrictions and receiving incentives under section 219, the fair market value of the property based on the highest and best use of the property as residential rental housing; and

"(2) for purposes of transferring the property under section 220 or 221, the fair market value of the housing based on the highest and best use of the property.

"(c) Guidelines.–The Secretary shall provide written guidelines for appraisals of preservation value, which shall assume repayment of the existing federally assisted mortgage, termination of the existing low-income affordability restrictions, and costs of compliance with any State or local laws of general applicability. The guidelines may permit reliance upon assessments of rehabilitation needs and other conversion costs determined by an appropriate State agency, as determined by the Secretary. The guidelines shall instruct the appraiser to use the greater of actual project operating expenses at the time of the appraisal (based on the average of the actual project operating expenses during the preceding 3 years) or projected operating expenses after conversion in determining preservation value. The guidelines established by the Secretary shall not be inconsistent with customary appraisal standards. The guidelines shall also meet the following requirements:

"(1) Residential rental value.–In the case of preservation value determined under subsection (b)(1), the guidelines shall assume conversion of the housing to market-rate rental housing and shall establish methods for (A) determining rehabilitation expenditures that would be necessary to bring the housing up to quality standards required to attract and sustain a market rate tenancy upon conversion, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to market-rate multifamily rental housing.

"(2) Highest and best use value.–In the case of preservation value determined under subsection (b)(2), the guidelines shall assume conversion of the housing to highest and best use for the property and shall establish methods for (A) determining any rehabilitation expenditures that would be necessary to convert the housing to such use, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to its highest and best use.

"SEC. 214. ANNUAL AUTHORIZED RETURN AND PRESERVATION RENTS.

"(a) Annual Authorized Return.–Pursuant to an appraisal under section 213, the Secretary shall determine the annual authorized return on the appraised housing, which shall be equal to 8 percent of the preservation equity (as such term is defined in section 229(8)).

"(b) Preservation Rents.–The Secretary shall also determine the aggregate preservation rents under this subsection for each project appraised under section 213. The aggregate preservation rents shall be used solely for the purposes of comparison with Federal cost limits under section 215. Actual rents received by an owner (or a qualified purchaser) shall be determined pursuant to section 219, 220, or 221. The aggregate preservation rents shall be established as follows:

"(1) Extension of affordability limits.–The aggregate preservation rent for purposes of receiving incentives pursuant to extension of the low-income affordability restrictions under section 219 shall be the gross potential income for the project, determined by the Secretary, that would be required to support the following costs:

"(A) The annual authorized return determined under subsection (a).

"(B) Debt service on any rehabilitation loan for the housing.

"(C) Debt service on the federally-assisted mortgage for the housing.

"(D) Project operating expenses.

"(E) Adequate reserves.

"(2) Sale.–The aggregate preservation rent for purposes of receiving incentives pursuant to sale under section 220 or 221 shall be the gross income for the project determined by the Secretary, that would be required to support the following costs:

"(A) Debt service on the loan for acquisition of the housing.

"(B) Debt service on any rehabilitation loan for the housing.

"(C) Debt service on the federally-assisted mortgage for the housing.

"(D) Project operating expenses.

"(E) Adequate reserves.

"SEC. 215. FEDERAL COST LIMITS AND LIMITATIONS ON PLANS OF ACTION.

"(a) Determination of Relationship to Federal Cost Limits.–

"(1) Initial determination.–For each eligible low-income housing project appraised under section 213(a), the Secretary shall determine whether the aggregate preservation rents for the project determined under paragraph (1) or (2) of section 214(b) exceed the amount determined by multiplying 120 percent of the fair market rental (established under section 8(c) of the United States Housing Act of 1937) for the market area in which the housing is located by the number of dwelling units in the project (according to appropriate unit sizes).

"(2) Relevant local markets.–If the aggregate preservation rents for a project exceeds the amount determined under paragraph (1), the Secretary shall determine whether such aggregate rents exceed the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to the appropriate unit sizes). A relevant local market area shall be an area geographically smaller than a market area established by the Secretary under section 8(c)(1) of the United States Act of 1937 that is identifiable as a distinct rental market area. The Secretary may rely on the appraisal to determine the relevant local market areas and prevailing rents in such local areas and any other information the Secretary determines is appropriate.

"(3) Effect.–For purposes of this subtitle, the aggregate preservation rents shall be considered to exceed the Federal cost limits under this subsection only if the aggregate preservation rents exceed the amount determined under paragraph (1) and the amount determined under paragraph (2).

"(b) Limitations on Action Pursuant to Federal Cost Limits.–

"(1) Housing within federal cost limits.–If the aggregate preservation rents for an eligible low-income housing project do not exceed the Federal cost limit, the owner may not prepay the mortgage on the housing or terminate the insurance contract with respect to the housing, except as permitted under section 224. The owner may–

"(A) file a plan of action under section 217 to receive incentives under section 219; or

"(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section.

"(2) Housing exceeding federal cost limits.–If the aggregate preservation rents for an eligible low-income housing project exceed the Federal cost limit, the owner may–

"(A) file a plan of action under section 217 to receive incentives under section 219 if the owner agrees to accept incentives under such sections in an amount that shall not exceed the Federal cost limit;

"(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section if the owner agrees to transfer the housing at a price that shall not exceed the Federal cost limit; or

"(C) file a second notice of intent under section 216(d) indicating an intention to prepay the mortgage or voluntarily terminate the insurance, subject to the mandatory sale provisions under section 221.

"SEC. 216. INFORMATION FROM SECRETARY.

"(a) Information to Owners Terminating Affordability Restrictions.–The Secretary shall provide each owner who submits a notice of intent to terminate the low-income affordability restrictions on the housing under section 218 with information under this section not later than 6 months after receipt of the notice of intent. The information shall include a description of the criteria for such termination specified under section 218 and the documentation required to satisfy such criteria.

"(b) Information to Owners Extending Low-Income Affordability Restrictions.–The Secretary shall provide each owner who submits notice of intent to extend the low-income affordability restrictions on the housing under section 219 or transfer the housing under section 220 to a qualified purchaser with information under this subsection not later than 9 months after receipt of the notice of intent. The information shall include any information necessary for the owner to prepare a plan of action under section 217, including the following:

"(1) Preservation values.–A statement of the preservation value of the housing determined under paragraphs (1) and (2) of section 213(b).

"(2) Preservation rent.–A statement of the preservation rent for the housing as calculated under section 214(b).

"(3) Federal cost limits.–A statement of the applicable Federal cost limits for the market area (or relevant local market area, if applicable) in which the housing is located, which shall explain the limitations under sections 219 and 220 of the amount of assistance that the Secretary may provide based on such cost limits.

"(4) Federal cost limit analysis.–A statement of whether the aggregate preservation rents exceeds the Federal cost limits and a direction to the owner to file a plan of action under section 217 or submit a second notice of intent under section 216(d), whichever is applicable.

"(c) Availability to Tenants.–The Secretary shall make any information provided to the owner under subsections (a) and (b) available to the tenants of the housing, together with other information relating to the rights and opportunities of the tenants.

"(d) Second Notice of Intent.–

"(1) Filing.–Each owner of eligible low-income housing that elects to transfer housing under section 220 shall submit to the Secretary, in such form and manner as the Secretary prescribes, notice of intent to sell the housing under section 220. To be eligible to prepay the mortgage or voluntarily terminate the insurance contract on the mortgage, an owner of housing for which the preservation rents exceed the Federal cost limits under section 215(b) shall submit to the Secretary notice of such intent. The provisions of sections 221 and 223 shall apply to any owner submitting a notice under the preceding sentence.

"(2) Timing.–A second notice of intent under this subsection shall be submitted not later than 30 days after receipt of information from the Secretary under this section. If an owner fails to submit such notice within such period, the notice of intent submitted by the owner under section 212 shall be void and ineffective for purposes of this subtitle.

"SEC. 217. PLAN OF ACTION.

"(a) Submission to Secretary.–

"(1) Timing.–Not later than 6 months after receipt of the information from the Secretary under section 216 an owner seeking to terminate the low-income affordability restrictions through prepayment of the mortgage or voluntary termination under section 218, or to extend the low-income affordability restriction on the housing under section 219, shall submit a plan of action to the Secretary in such form and manner as the Secretary shall prescribe. Any owner or purchaser seeking a transfer of the housing under section 220 or 221 shall submit a plan of action under this section to the Secretary upon acceptance of a bona fide offer under section 220 (b) or (c) or upon making of any bona fide offer under section 221.

"(2) Copies to tenants.–Each owner submitting a plan of action under this section to the Secretary shall also submit a copy to the tenants of the housing. The owner shall simultaneously submit the plan of action to the office of the chief executive

officer of the appropriate State or local government for the jurisdiction within which the housing is located. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.

"(3) Failure to submit.–If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or the applicable longer period), the notice of intent shall be ineffective for purposes of this subtitle and the owner may not submit another notice of intent under section 212 until 6 months after the expiration of such period.

"(b) Contents.–

"(1) Termination of affordability restrictions.–If the plan of action proposes to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, the plan shall include–

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of any proposed changes in the low-income affordability restrictions;

"(C) a description of any change in ownership that is related to prepayment or voluntary termination;

"(D) an assessment of the effect of the proposed changes on existing tenants;

"(E) an analysis of the effect of the proposed changes on the supply of housing affordable to low- and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

"(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(2) Extension of affordability restrictions.–If the plan of action proposes to extend the low-income affordability restrictions of the housing in accordance with section 219 or transfer the housing to a qualified purchaser in accordance with section 220, the plan shall include–

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of the Federal incentives requested (including cash flow projections), and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

"(C) a description of any assistance from State or local government agencies, including low-income housing tax credits, that have been offered to the owner or purchaser or for which the owner or purchaser has applied or intends to apply;

"(D) a description of any transfer of the property, including the identity of the transferee and a copy of any documents of sale; and

"(E) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(c) Revisions.–An owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle. The owner shall submit any revision to the Secretary and to the tenants of the housing.

"SEC. 218. PREPAYMENT AND VOLUNTARY TERMINATION.

"(a) Approval.–The Secretary may approve a plan of action that provides for termination of the low-income affordability restrictions through prepayment of the mortgage or voluntary termination of the mortgage insurance contract only upon a written finding that–

"(1) implementation of the plan of action will not–

"(A) materially increase economic hardship for current tenants, and will not in any event result in (i) a monthly rental payment by any current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (ii) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower); or

"(B) involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

"(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect–

"(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

"(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

"(C) the housing opportunities of minorities in the community within which the housing is located.

"(b) Disapproval.–If the Secretary determines a plan of action to prepay a mortgage or terminate an insurance contract fails to meet the requirements of subsection (a), the Secretary shall disapprove the plan, the notice of intent filed under section 212 by such owner shall not be effective for purposes of this subtitle, and the owner may, in order to receive incentives under this subtitle, file a new notice of intent under such section.

"SEC. 219. INCENTIVES TO EXTEND LOW-INCOME USE.

"(a) Agreements by Secretary.–After approving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to enable the owner to receive the annual authorized return for the housing determined under section 214(a), pay debt service on the federally-assisted mortgage covering the housing, pay debt service on any loan for rehabilitation of the housing, and meet project operating expenses and establish adequate reserves. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under subsections (b)(2) and (3) of this section.

"(b) Permissible Incentives.–Such agreements may include one or more of the following incentives:

"(1) Increased access to residual receipts accounts.

"(2) Subject to the availability of amounts provided in appropriations Acts–

"(A) an increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or

"(B) additional assistance under section 8 or an extension of any project-based assistance attached to the housing; and

"(3) An increase in the rents on units occupied by current tenants as permitted under section 222.

"(4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(5) Financing of capital improvements through provision of insurance for a second mortgage under section 241 of the

National Housing Act.

"(6) In the case of housing defined in section 229(1)(A)(iii), redirection of the Interest Reduction Payment subsidies to a second mortgage.

"(7) Access by the owner to a portion of the preservation equity in the housing through provision of insurance for a second mortgage loan insured under section 241(f) of the National Housing Act or a non-insured mortgage loan approved by the Secretary and the mortgagee.

(8) Other incentives authorized in law.

With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 236 of the National Housing Act, the provisions of subsections (f) and (g) of section 236 of such Act notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this subsection, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 236(f) of such Act absent the requirements of this paragraph.

"SEC. 220. INCENTIVES FOR TRANSFER TO QUALIFIED PURCHASERS.

"(a) In General.–With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 216(d) to transfer the housing to a qualified purchaser, the owner shall offer the housing for transfer to qualified purchasers as provided in this section. The Secretary shall issue regulations describing the means by which potential qualified purchasers shall be notified of the availability of the housing for sale. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under section 219(b)(2) and (b)(3) (pursuant to subsection (d)(3) of this section).

"(b) Right of First Offer to Priority Purchasers.–

"(1) Negotiation period.–For the 12-month period beginning on the receipt by the Secretary of a second notice of intent under section 216(d) with respect to such housing, the owner may offer to sell and negotiate a sale of the housing only with priority purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or the purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

"(2) Expression of interest.–During such period, priority purchasers may submit written notice to the Secretary stating their interest in acquiring the housing. Such notice shall be made in the form and include such information as the Secretary may prescribe.

"(3) Information.–Within 30 days of receipt of an expression of interest by a priority purchaser, the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide appropriate information on the housing, as determined by the Secretary.

"(c) Right of Refusal for Other Qualified Purchasers.–If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made and accepted during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

"(d) Assistance.–

"(1) Approval.–If the qualified purchaser is a resident council, the Secretary may not approve a plan of action for

assistance under this section unless the council's proposed resident homeownership program meets the requirements under section 226. For all other qualified purchasers, the Secretary may not approve the plan unless the Secretary finds that the criteria for approval under section 222 have been satisfied.

"(2) Amount.–Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide assistance sufficient to enable qualified purchasers to–

"(A) acquire the eligible low-income housing from the current owner for a purchase price not greater than the preservation equity of the housing;

"(B) pay the debt service on the federally-assisted mortgage covering the housing;

"(C) pay the debt service on any loan for the rehabilitation of the housing;

"(D) meet project operating expenses and establish adequate reserves for the housing;

"(E) receive an adequate return (as determined by the Secretary) on any actual cash investment made to acquire the project;

"(F) in the case of a priority purchaser, receive an adequate reimbursement for transaction expenses relating to acquisition of the housing, subject to approval by the Secretary; and

"(G) in the case of an approved resident homeownership program, cover the costs of training for the resident council, homeownership counseling and training, the fees for the nonprofit entity or public agency working with the resident council and costs related to relocation of tenants who elect to move.

"(3) Incentives.–

"(A) In general.–For all qualified purchasers of housing under this subsection, the Secretary may provide assistance for an approved plan of action in the form of 1 or more of the incentives authorized under section 219(b), except that any residual receipts for the housing transferred to the selling owner shall be deducted from the sale price of the housing under subsection (b) or (c) and the incentive under such section 219(b)(7) may include an acquisition loan under section 241(f) of the National Housing Act.

"(B) Priority purchasers.–Where the qualified purchaser is a priority purchaser, the Secretary may provide assistance for an approved plan of action (in the form of a grant) for each unit in the housing in an amount, as determined by the Secretary, that does not exceed the present value of the total of the projected published fair market rentals for existing housing (established by the Secretary under section 8(c) of the United States Housing Act of 1937) for the next 10 years (or such longer period if additional assistance is necessary to cover the costs referred to in paragraph (2)).

"SEC. 221. MANDATORY SALE FOR HOUSING EXCEEDING FEDERAL COST LIMITS.

"(a) In General.–With respect to any eligible low-income housing for which the aggregate preservation rents determined under section 214(b) exceed the Federal cost limit, the owner shall offer the housing for sale to qualified purchasers as provided in this section.

"(b) Right of First Refusal to Priority Purchasers.–

"(1) Duration and required sale.–For the 12-month period beginning upon the receipt by the Secretary of the second notice of intent under section 216(d) with respect to such housing, the owner of the housing may offer to sell and may sell the housing only to priority purchasers. If, during such period, a priority purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

"(2) Expression of interest.–During the period under paragraph (1), priority purchasers shall have the opportunity to submit

written notice to the owner and the Secretary stating their interest in acquiring the housing. Such written notice shall be in such form and include such information as the Secretary may prescribe.

"(3) Information from secretary.–Not later than 30 days after receipt of any notice under paragraph (2), the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide such purchaser with appropriate information on the housing, as determined by the Secretary.

"(c) Right of Refusal for Other Qualified Purchasers.–If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. If, during such period, a qualified purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

"(d) Assistance.–

"(1) Federal cost limit.–Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide to qualified purchasers assistance under section 8 of the United States Housing Act of 1937 sufficient to produce a gross income potential equal to the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to appropriate unit sizes), and any other incentives authorized under section 219(b) that would have been provided to a qualified purchaser under section 220.

"(2) Additional assistance.–From amounts made available under section 234(b), the Secretary may make grants to assist in the completion of sales and transfers under this section to any qualified purchasers. Any grant under this paragraph shall be in an amount not exceeding the difference between the preservation value for the housing (determined under section 213(b)(2)) and the level of assistance under paragraph (1) of this subsection.

"(3) Securing state and local funding.–The Secretary shall assist any qualified purchaser of such housing in securing funding and other assistance (including tax and assessment reductions) from State and local governments to facilitate a sale under this section.

"SEC. 222. CRITERIA FOR APPROVAL OF PLAN OF ACTION INVOLVING INCENTIVES.

"(a) In General.–The Secretary may approve a plan of action for extension of the low-income affordability restrictions on any eligible low-income housing or transfer the housing to a qualified purchaser (other than a resident council) only upon finding that–

"(1) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title;

"(2) binding commitments have been made to ensure that–

"(A) the housing will be retained as housing affordable for very low-income families or persons, low income families or persons, and moderate-income families or persons for the remaining useful life of such housing (as determined under subsection (c));

"(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing and that the project meets housing standards established by the Secretary under subsection (e), as determined by inspections conducted under such subsection by the Secretary;

"(C) current tenants will not be involuntarily displaced (except for good cause);

"(D) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937, whichever is lower, except that the rent contributions of any tenants occupying the housing at the time of any increase may not be reduced by reason of this subparagraph (except with respect to tenants receiving section 8 assistance in accordance with subparagraph (E)(ii) of this paragraph);

"(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)–

"(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and
"(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

"(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriation Acts, if necessary to mitigate any adverse effect on current income-eligible very low-and low-income tenants; and

"(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, low-income families or persons, and moderate-income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

"(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle;

"(G) future rent adjustments shall be–

"(i) made by applying an annual factor (to be determined by the Secretary) to the portion of rent attributable to operating expenses for the housing and by making changes in the annual authorized return under section 214; and
"(ii) subject to a procedure, established by the Secretary, for owners to apply for rent increases not adequately compensated by annual adjustment under clause (i), under which the Secretary may increase rents in excess of the amount determined under clause (i) only if the Secretary determines such increases are necessary to reflect extraordinary necessary expenses of owning and maintaining the housing; and

"(H) any savings from reductions in operating expenses due to management efficiencies shall be deposited in project reserves for replacement and the owner shall have periodic access to such reserves, to the extent the Secretary determines that the level of reserves is adequate and that the housing is maintained in accordance with the standards established under section 222(d); and

"(3) no incentives under section 219 (other than to purchasers under section 220) may be provided until the Secretary determines the project meets housing standards under subsection (d), except that incentives under such section and other incentives designed to correct deficiencies in the project may be provided.

"(b) Implementation.–Any agreement to maintain the low-income affordability restrictions for the remaining useful life of the housing may be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage, or, in the case of the prepayment of a mortgage or voluntary termination of mortgage insurance, a recorded instrument.

"(c) Determination of Remaining Useful Life.–

"(1) Definition.–For purposes of this title, the term 'remaining useful life' means, with respect to eligible low-income housing, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes

necessary.

"(2) Standards.–The Secretary shall, by rule under section 553 of title 5, United States Code, establish standards for determining when the useful life of an eligible low-income housing project has expired. The determination shall be made on the record after opportunity for and hearing.

"(3) Owner petition.–The Secretary shall establish a procedure under which owners of eligible low-income housing may petition the Secretary for a determination that the useful life of such housing has expired. The procedure shall not permit such a petition before the expiration of the 50-year period beginning upon the approval of a plan of action under this subtitle with respect to such housing. In making a determination pursuant to a petition under this paragraph, the Secretary shall presume that the useful life of the housing has not expired, and the owner shall have the burden of proof in establishing such expiration. The Secretary may not determine that the useful life of any housing has expired if such determination results primarily from failure to make regular and reasonable repairs and replacement, as became necessary.

"(4) Tenant and community comment and appeal.–In making a determination regarding the useful life of any housing pursuant to a petition submitted under paragraph (3), the Secretary shall provide for comment by tenants of the housing and interested persons and organizations with respect to the petition. The Secretary shall also provide the tenants and interested persons and organizations with an opportunity to appeal a determination under this subsection.

"(d) Housing Standards.–

"(1) Establishment and inspection.–The Secretary shall, by regulation, establish standards regarding the physical condition in which any eligible low income housing project receiving incentives under this subtitle shall be maintained. The Secretary shall inspect each such project not less than annually to ensure that the project is in compliance with such standards.

"(2) Sanctions.–

"(A) In general.–The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including–

"(i) directing the mortgagee, with respect to an equity take-out loan under section 241(f) of the National Housing Act, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the housing; and
"(ii) reduce the amount of the annual authorized return, as determined by the Secretary, for the period ending upon a determination by the Secretary that the project is in compliance with the standards and requiring that such amounts be used for repair.

"(B) Continued compliance.–To ensure continued compliance with the standards for a project subject to any action under subparagraph (A), the Secretary may also limit access of the owner to such amounts and use of such amounts for not more than the 2-year period beginning upon the determination that project is in compliance with the standards.

"(C) Removal of assistance.–If, upon inspection, the Secretary determines that any eligible low income housing project has failed to comply with the standards established under this subsection for 2 consecutive years, the Secretary may take 1 or more of the following actions:

"(i) Subject to availability of amounts provided in appropriations Acts, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the housing) for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in the housing vacated pursuant to the provision of assistance under this clause, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.
"(ii) In the case of housing for which an equity take-out loan has been made under section 241(f) of the National Housing Act, declare such loan to be default and accelerate the maturity date of the loan.
"(iii) Declare any rehabilitation loan insured or provided by the Secretary (with respect to the housing) to be in default

and accelerate the maturity date of the loan.

"(iv) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937.

"(v) Take any other action authorized by law or the project regulatory agreement to ensure that the housing will be brought into compliance with the standards established under this subsection.

"(e) Windfall Profits.–The Secretary shall submit a report to the Congress not later than 90 days after the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 212. To prevent payment of windfall profits, the Secretary may make available incentive payments under section 219 or 220 only to owners in those rental markets where there is an inadequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation or where necessary to accomplish the other public policy objectives under this subtitle. The Secretary shall implement this subsection in a manner consistent with the process established by this subtitle.

"SEC. 223. ASSISTANCE FOR DISPLACED TENANTS.

"(a) Section 8 Assistance.–Each low-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing shall, subject to the availability or amounts provided under appropriations Acts, receive assistance under the certificate and voucher programs under sections 8(b) and 8(o) of the United States Housing Act of 1937. To the extent sufficient amounts are made available under appropriations Acts, in each fiscal year the Secretary shall reserve from amounts made available under section 234(a) of this Act or, if necessary, under section 5(c) of the United States Housing Act of 1937, such amounts as the Secretary determines are necessary to provide assistance payments for low-income families displaced during the fiscal year.

"(b) Relocation Assistance.–The Secretary shall coordinate with public housing agencies to ensure that any very low- or low-income family displaced from eligible low-income housing as the result of the prepayment of the mortgage (or termination of the mortgage insurance contract) on such housing is able to acquire a suitable, affordable dwelling unit in the area of the housing from which the family is displaced. The Secretary shall require the owner of such housing to pay 50 percent of the moving expenses of each family relocated, except that such percentage shall be increased to the extent that State or local law of general applicability requires a higher payment by the owner.

"(c) Continued Occupancy.–

"(1) In general.–Each owner that prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing shall, as provided in paragraph (3), allow the tenants occupying units in such housing on the date of the submission of notice of intent under section 212 to remain in the housing for a period of 3 years, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment.

"(2) Provision of assistance by owner.–In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

"(3) Applicability to low-vacancy areas and special needs tenants.–The provisions of this subsection shall apply only to–

"(A) eligible low income housing located in a low-vacancy area (as such term is defined by the Secretary); and

"(B) tenants in any eligible low-income housing in any area who have special needs restricting their ability to relocate (including elderly tenants and tenants with disabilities), as determined under regulations established by the Secretary.

"(d) Required Acceptance of Section 8 Assistance.–An owner who prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing and maintains the housing for residential rental occupancy may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rent of a dwelling unit in such

property to any person, or discriminate against any person in the terms, conditions, or privileges of rental of a dwelling (or in the provision of services or facilities in connection therewith), because the person receives assistance under section 8 of United States Housing Act of 1937.

"(e) Regional Pools.–In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low income housing or the termination of an insurance contract on such housing.

"SEC. 224. PERMISSIBLE PREPAYMENT OR VOLUNTARY TERMINATION AND MODIFICATION OF COMMITMENTS.

"(a) In General.–Notwithstanding any limitations on prepayment or voluntary termination under this subtitle, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 223, under one of the following circumstances:

"(1)(A) The Secretary approves a plan of action under section 219(a), but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.

"(B) After the date that the housing would have been eligible for prepayment pursuant to the terms of the mortgage (notwithstanding this subtitle), the Secretary approves a plan of action under section 220 or 221, but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 6-month period beginning on the date of approval.

"(C) The Secretary approves a plan of action under section 220 or 221 for any eligible low-income housing not covered by subparagraph (B), but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 9-month period beginning on the date of approval.

"(2) An owner who intended to transfer the housing to a qualified purchaser under section 220 or 221, and fully complied with the provisions of such section, did not receive any bona fide offers from any qualified purchasers within the applicable time periods.

In the event that the purchaser under the plan of action is unable to consummate the purchase for reasons other than the failure of the Secretary to provide incentives, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination subject to the provisions of sections 220 and 221.

"(b) Section 8 Rental Assistance.–When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

"(1) Modification of commitments.–Modify the binding commitments made pursuant to section 222(a)(2) that are dependent on such rental assistance.

"(2) Termination of plan of action.–Permit the owner to prepay the mortgage and terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to comply with provisions of section 223.

At least 30 days before making a request under this subsection, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under section 222(a)(2).

"SEC. 225. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

"(a) Notification of Deficiencies.–Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan may be revised to meet the criteria for approval.

"(b) Notification of Approval.–

"(1) In general.–Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe–

"(A) the reasons for withholding approval; and

"(B) the actions that could be taken to meet the criteria for approval.

"(2) Opportunity to revise.–The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

"(c) Delayed Approval.–If the Secretary does not approve a plan of action within the period under subsection (b), the Secretary shall provide incentives and assistance under this subtitle in the amount that the owner would have received if the Secretary had complied with such time limitations. The preceding sentence shall not apply if the plan of action was not approved because of deficiencies. An owner may bring an action in the appropriate Federal district court to enforce this subsection.

"SEC. 226. RESIDENT HOMEOWNERSHIP PROGRAM.

"(a) Formation of Resident Council.–Tenants seeking to purchase eligible low-income housing in accordance with section 220 shall organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof). Such organization or public body shall have experience to enable it to help the tenants consider their options and to develop the capacity necessary to own and manage the housing, where appropriate, and shall be approved by the Secretary.

"(b) Other Program Requirements and Limitations.–

"(1) Sales to residents.–As a condition of approval of a plan of action involving homeownership program under this subtitle, the resident council shall prepare a workable plan acceptable to the Secretary for giving all residents an opportunity to become owners, which plan shall identify–

"(A) the price at which the resident council intends to transfer ownership interests in, or shares representing, units in the housing;

"(B) the factors that will influence the establishment of such price;

"(C) how such price compares to the estimated appraised value of the ownership interests or shares;

"(D) the underwriting standard the resident council plans to use (or reasonably expects a public or private lender to use) for

potential tenant purchasers;

"(E) the financing arrangements the tenants are expected to pursue or be provided; and

"(F) a workable schedule of sale (subject to the limitations of paragraph (8)) based on estimated tenant incomes.

"(2) Approval of method of conversion.–The Secretary shall approve the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(3) Required conditions.–The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that–

"(A) the number of initial owners that are very low-income, lower income, or moderate-income persons at initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the project are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit it acquires.

"(4) Use of proceeds from sales to eligible families.–The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 220, subject to availability under appropriations Acts. Such entity shall keep, and make available to the Secretary, all records necessary to calculate accurately payments due the Secretary under this paragraph.

"(5) Restrictions on resale by homeowners.–

"(A) In general.–

"(i) Transfer permitted.–A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.
"(ii) Right to purchase.–Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer.
"(iii) Promissory note required.–The homeowner shall execute a promissory note equal to the difference, if any, between the market value and the purchase price, payable to the Secretary, together with a mortgage securing the obligation of the note.

"(B) 6 years or less.–In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of–

"(i) the contribution to equity paid by the family;
"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and
"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index,

an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

"(C) 6–20 years.–In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in subparagraph (A)(iii).

"(D) Use of recaptured funds.–Any net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this paragraph shall be paid to the HOME Investment Trust Fund for the unit of general local government in which the housing is located. If the housing is located in a unit of general local government that is not a participating jurisdiction (as such term is defined in section 104 of the Cranston-Gonzalez **NationalAffordableHousingAct**), any such net sales proceeds shall be paid to the HOME Investment Trust Fund for the State in which the housing is located. With respect to any proceeds transferred to a HOME Investment Trust Fund under this subparagraph, the Secretary shall take such actions as are necessary to ensure that the proceeds shall be immediately available for eligible activities to expand the supply of affordable housing under section 212 of the Cranston-Gonzalez **NationalAffordableHousingAct**. The Secretary shall require the maintenance of any records necessary to calculate accurately payments due under this paragraph.

"(6) Protection of nonpurchasing families.–

"(A) Eviction.–No tenant residing in a dwelling unit in a property on the date the Secretary approves a plan of action may be evicted by reason of a homeownership program approved under this subtitle.

"(B) Rental assistance.–If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (that meets the eligibility requirements under such section) in that or another property. The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) Relocation assistance.–The resident council shall also inform each such tenant that if the tenant chooses to move, the owner will pay relocation assistance in accordance with the approved homeownership program.

"(7) Qualified management.–As a condition of approval of a homeownership program under this subtitle, the resident council shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(8) Timely homeownership.–Resident councils shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the resident council shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of providing housing for very low-income families. The resident council shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(9) Records and audit of resident councils.–

"(A) Maintenance.–Each resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under this subtitle (including any proceeds from sales under paragraphs (4) and (5)(D)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(B) Access.–The Secretary shall have access for the purpose of audit and examination to any books, documents, papers,

and records of the resident council that are pertinent to assistance received under this subtitle.

"(C) Audit.–The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(10) Assumption conditions.–Any entity that assumes, as determined by the Secretary, a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing as determined under section 222(d). This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

"SEC. 227. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

"(a) In General.–In addition to any responsibilities delegated under section 213(c), the Secretary shall delegate some or all responsibility for implementing this subtitle to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

"(b) Approval.–State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain–

"(1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subtitle within 5 years;

"(2) a description of the agency's experience in the area of multifamily financing and restructuring;

"(3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this subtitle;

"(4) a description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with this subtitle;

"(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

"(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

"(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subtitle.

"(c) Implementation Agreements.–The Secretary may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of this subtitle.

"SEC. 228. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

"The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under this subtitle. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subtitle.

"SEC. 229. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible low-income housing' means any housing financed by a loan or mortgage–

"(A) that is–

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;
"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;
"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or
"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'Federal cost limit' means, for any eligible low-income housing, the amount determined under section 215(a).

"(3) The term 'low-income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

"(4) The terms 'low-income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for low-income families and very low-income families, respectively, under section 3(b)(2) of the United States Housing Act of 1937.

"(5) The term 'moderate-income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(6) The term 'nonprofit organization' means any private, nonprofit organization that–

"(A) is organized or chartered under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

"(7) The term 'owner' means the current or subsequent owner or owners of eligible low-income housing.

"(8) The term 'preservation equity' means, for any eligible low-income housing–

"(A) for purposes of determining the authorized return under section 214(a) and providing incentives to extend the low-income affordability restrictions on the housing under section 219–

"(i) the preservation value of the housing determined under section 213(b)(1); less
"(ii) any debt secured by the property; and

"(B) for purposes of determining incentives under section 220 and 221 and determining the amount of an acquisition loan under the provisions of section 241(f)(3) of the National Housing Act–

"(i) the preservation value of the housing determined under section 213(b)(2); less
"(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.
"(9) The term 'preservation value' means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 213(b).

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'resident council' means any incorporated nonprofit organization or association that–

"(A) is representative of the resident of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the housing.

"SEC. 230. NOTICE TO TENANTS.

"Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

"SEC. 231. DEFINITIONS OF QUALIFIED AND PRIORITY PURCHASER AND RELATED PARTY RULE.

"(a) Priority Purchaser.–The term 'priority purchaser' means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 231; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)).

"(b) Qualified Purchaser.–The term 'qualified purchaser' means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)), and includes for-profit entities and priority purchasers.

"(c) Related Parties.–Except as provided in subsection (d), the terms 'qualified purchaser' and 'priority purchaser' do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subtitle, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

"(d) Management Exception.–A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm's length basis.

"SEC. 232. PREEMPTION OF STATE AND LOCAL LAWS.

"(a) In General.–No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that–

"(1) restricts or inhibits the prepayment of any mortgage described in section 227(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

"(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 214;

"(3) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

"(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

"(b) Effect.–This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle and relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct** that prevent or limit an owner of eligible low income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

"SEC. 233. SEVERABILITY.

"If any provision of this subtitle, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) General.–There are authorized to be appropriated for assistance and incentives authorized under this subtitle $425,000,000 for fiscal year 1991 and $858,000,000 for fiscal year 1992.

"(b) Grants.–Of the amounts made available under subsection (a), not more than $100,000,000 for each of fiscal years 1991 and 1992 shall be available for grants under section 221(d)(2), subject to approval in appropriations Acts.

"SEC. 235. APPLICABILITY.

"Subject to section 605 of the Cranston-Gonzalez **NationalAffordableHousingAct**, the requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987.".

(b) Table of Contents.–The table of contents of such Act is amended by striking the items relating to subtitles A and B of title II and inserting the following:

"Subtitle A–Short Title

"Sec. 201. Short title.

"Subtitle B–Prepayment of Mortgages Insured Under National Housing Act

“Sec. 211. General prepayment limitation.

“Sec. 212. Notice of intent.

“Sec. 213. Appraisal and preservation value of eligible low-income housing.

“Sec. 214. Annual authorized return and preservation rents.

“Sec. 215. Federal cost limits and limitations on plans of action.

“Sec. 216. Information from Secretary.

“Sec. 217. Plan of action.

“Sec. 218. Prepayment and voluntary termination.

“Sec. 219. Incentives to extend low-income use.

“Sec. 220. Incentives for transfer to qualified purchasers.

“Sec. 221. Mandatory sale for housing exceeding Federal cost limits.

“Sec. 222. Criteria for approval of plan of action involving incentives.

“Sec. 223. Assistance for displaced tenants.

“Sec. 224. Permissible prepayment or voluntary termination and modification of commitments.

“Sec. 225. Timetable for approval of plan of action.

“Sec. 226. Resident homeownership program.

“Sec. 227. Delegated responsibility to State agencies.

“Sec. 228. Consultations with other interested parties.

“Sec. 229. Definitions.

“Sec. 230. Notice to tenants.

“Sec. 231. Definitions of qualified and priority purchasers and related party rule.

“Sec. 232. Preemption of state and local laws.

“Sec. 233. Severability.

“Sec. 234. Authorization of appropriations.

“Sec. 235. Applicability.”.

SEC. 602. RELATED NATIONAL HOUSING ACT AMENDMENTS.

(a) Insurance for Second Mortgage Financing.–Section 241(f) of the National Housing Act is amended to read as follows:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans and acquisition loans made by financial institutions approved by the Secretary and State housing finance agencies that enter into risk-sharing agreements with the Secretary.

"(2)(A) For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) who agrees to extend the low-income affordability restrictions on the housing pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an equity loan shall–

"(i) be limited to an amount equal to the lesser of (I) 70 percent of the preservation equity in the project, as determined by the Secretary under such Act, or (II) the amount the Secretary determines can be supported by the project on the basis of an 8 percent return on the preservation equity (assuming normal debt service coverages); and

"(ii) provide for the lender to deposit (on behalf of the borrowing owner) 10 percent of the loan amount in an escrow account, controlled by the Secretary or a State housing finance agency approved by the Secretary, which shall be made available to the owner upon the expiration of the 5-year period beginning on the date the loan is made, subject to compliance with section 222(d) of such Act; and

"(3)(A) For purposes of this section, the term 'acquisition loan' means a loan or advance of credit to a qualified purchaser of eligible low income housing (as defined in section 231 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) acquiring the housing under section 220 or 221 of such Act who agrees to extend the low-income affordability restrictions pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an acquisition loan shall be limited to 95 percent of the preservation equity of the housing determined under section 229(8) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, except that the loan may include, if the qualified purchaser is a priority purchaser as defined under section 231 of such Act, any expenses associated with the acquisition, loan closing, and implementation of the plan of action, subject to approval by the Secretary.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this subsection, except that–

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligations of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may–

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity or acquisition loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity or acquisition loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity or acquisition loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) Loans insured under this subsection shall–

"(A) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(B) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(6) The Secretary may provide for combination of loans insured under subsection (d) with equity and acquisition loans insured under this subsection.

"(7) When underwriting an equity or acquisiton loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 222 of the Cranston-Gonzalez **NationalAffordableHousingAct** will be extended for the full term of the contract entered into under such Act. The Secretary may accelerate repayment of a loan under this subsection if rental assistance is not extended under section 222(b) of such Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.

"(8) If the Secretary is unable to extend the term of rental assistance for the full term of the contract entered into under section 222(b) of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary may take such actions as the Secretary determines to be appropriate to avoid default, avoid disruption of the sound ownership and management of the housing, and otherwise minimize the cost to the Federal Government.

"(9) A mortgagee approved by the Secretary may not withhold consent to an equity or acquisition loan on a property on which that mortgagee holds a mortgage.

(b) Approval Prior to Foreclosure.–Section 250(b) of such Act (12 U.S.C. 1715z–15(b)) is amended to read as follows:

"(b) A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project (as such term is defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.".

(c) Repealer.–Section 250(c) of such Act is hereby repealed, and section 250(d) is redesignated as section 250(c).

SEC. 603. RELATED UNITED STATES HOUSING ACT OF 1937 AMENDMENTS.

Section 8(v)(2) of the United States Housing Act of 1937 is amended by striking out "Emergency Low Income Housing Preservation Act of 1987" and inserting "Low-Income Housing Preservation and Resident Homeownership Act of 1990".

SEC. 604. TRANSITION PROVISIONS.

(a) Housing Eligible for Election.–Any owner of housing that becomes eligible low-income housing before January 1, 1991 and who, before such date, filed a notice of intent under section 222 of the Emergency Low Income Housing Preservation Act of 1987 (as such section existed before the date of the enactment of this Act) or under section 212 of such Act (as amended by section 601(a)) may elect to be subject to (1) the provisions of such Act as in effect before the date of the enactment of this Act, or (2) the provisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, after the date of the enactment of this Act. The Secretary shall establish procedures for owners to make the election under the preceding sentence.

(b) Right of Conversion to New System.–Any owner who has filed a plan of action on or before October 11, 1990, shall have the right to convert to the system of incentives and restrictions under this subtitle, with such adjustments as the Secretary determines to be appropriate to compensate for the value of any incentives the owner received under the Emergency Low Income Housing Preservation Act of 1987. Owners filing plans after such date shall not have any right under this subsection.

(c) Effectiveness of Repealed Provisions.–Notwithstanding the amendment made by section 601(a), the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of this Act) shall apply with respect to any housing for which the election under subsection (a)(1) is made.

(d) Regulations.–Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, subject to the provisions of section 553 of title 5, United States Code, publish proposed rules to implement this subtitle and the amendments made by this subtitle. Not later than 45 days after the expiration of the period under the preceding sentence the Secretary shall issue interim or final rules to implement such provisions.

SEC. 605. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

Subtitle B–Other Preservation Provisions

SEC. 611. SECTION 236 RENTAL ASSISTANCE.

(a) Definition of Income.–Section 236(m) of the National Housing Act (12 U.S.C. 1715z–1) is amended by inserting before the period at the end of the first sentence the following: ", except that any amounts not actually received by the family may not be considered as income under this subsection".

(b) Rent Charges.–

(1) Projects assisted under section 236.–Section 236(f) of the National Housing Act (12 U.S.C. 1715z–1(f)) is amended by adding at the end the following new paragraph:

"(5)(A) In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be–

"(i) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

"(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

"(B) Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.".

(2) Insured projects.–Section 221(f) of the National Housing Act (12 U.S.C. 1715*l*(f)) is amended by adding at the end the following new undesignated paragraph:

"In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary

may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be–

"(A) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

"(B) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(C) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.".

SEC. 612. MANAGEMENT AND PRESERVATION OF FEDERALLY ASSISTED HOUSING.

(a) Section 236.–Section 236(f) of the National Housing Act, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(6)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located.

"(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1).".

(b) Section 221.–Section 221 of the National Housing Act is amended by inserting the following new subsection after subsection (k):

"(l)(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

"(2) For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5).".

SEC. 613. ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.

(a) Section 8 Assistance.–

(1) Authority.–Section 8(d)(2)(A)) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the period at the end the following: "Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required

to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.".

(2) Contract term.–Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended by inserting after the period at the end the following: "To the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.".

(b) State Preservation Project Assistance.–

(1) In general.–Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal use restrictions under subtitle B of title II of the Housing and Community Development Act of 1987.

(2) Section 8.–Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under section 224(e) of the Housing and Community Development Act of 1987. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) Restriction.–Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

TITLE VII–RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) Insurance and Guarantee Authority.–Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1991 and 1992, in aggregate amounts not to exceed $2,125,800,000 and $2,217,150,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low income borrowers receiving assistance under section 521(a)(1), $1,391,300,000 for fiscal year 1991 and $1,451,100,000 for fiscal year 1992.

"(B) For guaranteed loans under section 502(h) on behalf of low and moderate income borrowers, such sums as may be appropriated for fiscal years 1991 and 1992.

"(C) For loans under section 504, $11,900,000 for fiscal year 1991 and $12,400,000 for fiscal year 1992.

"(D) For insured loans under section 514, $12,000,000 for fiscal year 1991 and $12,500,000 for fiscal year 1992.

"(E) For insured loans under section 515, $709,000,000 for fiscal year 1991 and $739,500,000 for fiscal year 1992.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1991 and $800,000 for fiscal year 1992.

"(G) For site loans under section 524, $800,000 for fiscal year 1991 and $850,000 for fiscal year 1992.".

(b) Authorization of Appropriations.–Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1991 and 1992, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,000,000 for fiscal year 1991 and $1,100,000 for fiscal year 1992.

"(2) For grants under section 504, $20,200,000 for fiscal year 1991 and $21,100,000 for fiscal year 1992.

"(3) For purposes of section 509(c), $550,000 for fiscal year 1991 and $600,000 for fiscal year 1992.

"(4) For project preparation grants under section 509(f)(6), $5,000,000 in fiscal year 1991 and $5,300,000 in fiscal year 1992.

"(5) In fiscal years 1991 and 1992, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to–

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For financial assistance under section 516–

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $20,900,000 for fiscal year 1991 and $21,700,000 for fiscal year 1992; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,000,000 for fiscal year 1991 and $10,500,000 for fiscal year 1992.

"(7) For grants under section 523(f), $13,400,000 for fiscal year 1991 and $13,900,000 for fiscal year 1992.

"(8) For grants under section 533, $29,600,000 for fiscal year 1991 and $30,800,000 for fiscal year 1992.".

(c) Rental Assistance Payment Contracts.–Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $397,000,000 for fiscal year 1991 and $414,100,000 for fiscal year 1992.".

(d) Supplemental Rental Assistance Contracts.–Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $5,200,000 for fiscal year 1991 and $5,500,000 for fiscal year 1992.".

(e) Rental Housing Loan Authority.–Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(f) Mutual and Self-Help Housing Grant and Loan Authority.–Section 523(f) of the Housing Act of 1949 (42 U.S.C. 1490c(f)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

SEC. 702. EFFECT OF FOSTER CARE CHILDREN IN DETERMINATION OF FAMILY COMPOSITION AND SIZE.

Section 501(b)(4) of the Housing Act of 1949 (42 U.S.C. 1471(b)(4)) is amended by inserting after the period at the end the following new sentence: "The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size.".

SEC. 703. ESCROW ACCOUNTS.

Section 501(e) of the Housing Act of 1949 (42 U.S.C. 1471(e)) is amended by inserting after the third sentence the following: "The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds, subject to appropriations to the extent that additional budget authority is necessary to carry out this sentence.".

SEC. 704. REMOTE RURAL AREAS.

(a) In General.–Section 502 of the Housing Act of 1949 (42 U.S.C. 1472) is amended by adding at the end the following new subsection:

"(f) Remote Rural Areas.–

"(1) Loan supplements.–The Secretary may supplement any loan under this section to finance housing located in a remote rural area with a grant in an amount not greater than the amount by which the reasonable land acquisition and construction costs of the security property exceeds the appraised value of such property.

"(2) Prohibition.–The Secretary may not refuse to make, insure, or guarantee a loan that otherwise meets the requirements under this section solely on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote.".

(b) Regulations.–Not later than the expiration of the 120-day period beginning on the date of enactment of this Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a).

SEC. 705. SECTION 502 DEFERRED MORTGAGE DEMONSTRATION.

(a) In General.–Section 502 of the Housing Act of 1949 (42 U.S.C. 1472), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(g) Deferred Mortgage Demonstration.–

"(1) Authority.–With respect to families or persons otherwise eligible for assistance under subsection (d) but having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes and insurance. Deferred

mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 25 percent of the amount of the payment due at 1 percent interest and shall be subject to recapture.

"(2) Interest.–Interest on principal deferred shall be set at 1 percent and any interest payments deferred under this subsection shall not be treated as principal in calculating indebtedness.

"(3) Funding.–Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1991 and 1992 for loans under this section may be used to carry out this subsection.".

(b) Regulations.–Not later than the expiration of the 120-day period beginning on the date of enactment of this Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a).

SEC. 706. RURAL HOUSING LOAN GUARANTEES.

(a) Findings and Purpose.–

(1) Findings.–The Congress finds that–

(A) the Federal Government should encourage support for homeownership through nonsubsidized mortgage loans guaranteed by the Secretary of Agriculture for the purchase of modest homes located in rural areas and small communities of the country that are not adequately served by private conventional, federally insured, or guaranteed mortgage credit providers; and

(B) many rural areas contain disproportionate amounts of substandard housing in need of repair, but lack the necessary funding and support to modernize such housing through preservation.

(2) Purpose.–The purpose of this section is to expand homeownership opportunities to low- and moderate-income residents of rural areas of the country through the establishment of guaranteed rural housing loans to be made available in rural locations where there is an insufficient availability of mortgage financing from other sources.

(b) Guaranteed Loans for Housing Acquisition.–Section 502 of the Housing Act of 1949 (42 U.S.C. 1472), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(h) Guaranteed Loans.–

"(1) Authority.–The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A), except as modified by the provisions of this subsection. Loans shall be guaranteed under this subsection in an amount equal to 90 percent of the loan.

"(2) Eligible borrowers.–Loans guaranteed pursuant to this subsection shall be made only to borrowers who are low or moderate income families or persons, whose incomes do not exceed the median income of the area, as determined by the Secretary.

"(3) Eligible housing.–Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is–

"(A) to be used as the principal residence of the borrower;

"(B) eligible for assistance under this section, section 203(b) of the National Housing Act, or chapter 37 of title 38, United States Code; and

"(C) located in a rural area that is more than 25 miles from an urban area or densely populated area.

"(4) Priority and counseling for first-time homebuyers.–

"(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (12)(A)).

"(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 and obtain certification from the provider of the program that the borrower is adequately prepared for the obligations of homeownership.

"(5) Eligible lenders.–Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

"(6) Loan terms.–Loans guaranteed pursuant to this subsection shall–

"(A) be made for a term not to exceed 30 years;

"(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the rate for loans guaranteed under chapter 37 of title 38, United States Code, or comparable loans in the area that are not guaranteed; and

"(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)–

"(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act; and
"(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less.

"(7) Guarantee fee.–With respect to a guaranteed loan under this subsection, the Secretary may collect from the lender at the time of issuance of the guarantee a fee equal to not more than 1 percent of the principal obligation of the loan.

"(8) Refinancing.–Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

"(9) Nonassumption.–Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

"(10) Geographical targeting.–In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low and moderate income families.

"(11) Allocation.–The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

"(12) Definitions.–For purposes of this subsection:

"(A) The term 'displaced homemaker' means an individual who–

"(i) is an adult;
"(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked

primarily without remuneration to care for the home and family; and
"(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
"(B) The term 'first-time homebuyer' means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that–

"(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and
"(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.
"(C) The term 'single parent' means an individual who–

"(i) is unmarried or legally separated from a spouse; and
"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or
"(II) is pregnant.
"(D) The term 'State' means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.".

(c) Conforming Amendments.–Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended–

(1) by inserting "(A)" after "Secretary"; and

(2) by striking "Act and" and inserting the following: "Act; (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949; and (C)".

(d) Regulations and Implementation.–

(1) Proposed regulations and comment period.–Not later than 120 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register proposed regulations to implement the amendments made by this section. The Secretary shall receive comments regarding the regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

(2) Implementation.–Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to implement the amendments made by this section. The Secretary shall provide for the regulations to take effect not later than 30 days after the date on which the regulations are issued.

(3) Applicability.–The amendments made by this section shall not apply to guaranteed loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) made before the date on which the final regulations issued by the Secretary under paragraph (2) take effect.

(4) Consultation.–In developing and promulgating the regulations under paragraphs (1) and (2), the Secretary of Agriculture shall consult with the chairperson of the Federal Agricultural Mortgage Corporation and shall solicit the views of borrowers, lenders, realtors, and homebuilders experienced and knowledgeable regarding housing in rural areas to provide that the regulations promulgated ensure that guaranteed loans pursuant to the amendments made by this section–

(A) are made in a manner that is cost-effective; and

(B) are made in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders.

SEC. 707. FORECLOSURE PROCEDURES.

(a) In General.–Section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended–

(1) by inserting "(a) Moratorium.–" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) Foreclosure Procedure.–In foreclosing on any mortgage held by the Secretary under this title, the Secretary shall follow the foreclosure procedures of the State in which the property involved is located to the extent such procedures are more favorable to the borrower than the foreclosure procedures that would otherwise be followed by the Secretary. This subsection shall be subject to the availability of amounts approved in appropriations Acts, to the extent additional budget authority is necessary to carry out this subsection.".

(b) Conforming Amendment.–The section heading for section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended to read as follows:

"loan payment moratorium and foreclosure procedures".

SEC. 708. DISPOSITION OF INTERESTS ON INDIAN TRUST LAND.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479) is amended–

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.".

SEC. 709. HOUSING IN UNDERSERVED AREAS.

(a) Purpose.–The purpose of this section is to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs, including extremely distressed areas in the Lower Mississippi Delta and other regions of the Nation, by directing Farmers Home Administration assistance toward designated underserved areas.

(b) Assistance for Underserved Areas.–Section 509 of the Housing Act of 1949 (42 U.S.C. 1479), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(f) Housing in Underserved Areas.–

"(1) Designation of underserved area.–The Secretary shall designate as targeted underserved areas 100 counties and communities in each of fiscal years 1991 and 1992 that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 5-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this title that is substantially lower than the average annual amount of such assistance received during that 5-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has–

"(A) 20 percent or more of its population at or below the poverty level; and

"(B) 10 percent or more of its population residing in substandard housing.

As used in this paragraph, the term 'poverty level' has the meaning given the term in section 102(a)(9) of the Housing and Community Development Act of 1974.

"(2) Preferences.–In selecting projects to receive assistance with amounts set aside under paragraph (4), the Secretary shall give preference to any project located in a county or community that has, at the time of designation and as determined by the Secretary–

"(A) 28 percent or more of its population at or below poverty level; and

"(B) 13 percent or more of its population residing in substandard housing.

"(3) Outreach program and review.–

"(A) Outreach.–The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(B) Review.–Upon the receipt of data from the 1990 decennial census, the Secretary shall conduct a review of any designations made under paragraph (1) and preferences given under paragraph (2) and the eligibility of communities and counties for such designation and preference, examining the effects of such data on such eligibility. The Secretary shall submit to the Congress, not later than 9 months after the availability of the data, a report regarding the review, which shall include any recommendations of the Secretary for modifications in the standards for designation and preference.

"(4) Set-aside for targeted underserved areas and colonias.–

"(A) In general.–The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992 of the aggregate amount of lending authority under sections 502, 504, 514, 515, and 524. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under sections 514 and 515 that is set aside for such fiscal year. The Secretary shall establish a procedure to reallocate any assistance set aside in any fiscal year for targeted underserved areas that has not been expended during a reasonable period in such year for use in (i) colonias that have applied for and are eligible for assistance under subparagraph (B) or paragraph (7) and did not receive assistance, and (ii) counties and communities eligible for designation as targeted underserved areas but which were not so designated. The procedure shall also provide that any assistance reallocated under the preceding sentence that has not been expended by a reasonable date established by the Secretary (which shall be after the expiration of the period referred to in the preceding sentence) shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.

"(B) Priority for colonias.–

"(i) Notwithstanding the designation of counties and communities as targeted underserved areas under paragraph (1) and the provisions of section 520, colonias shall be eligible for assistance with amounts reserved under subparagraph (A), as provided in this subparagraph.
"(ii) In providing assistance from amounts reserved under this paragraph in each fiscal year, the Secretary shall give priority to any application for assistance to be used in a colonia located in a State described under clause (iii). After the Secretary has provided assistance under the priority for colonias located in a State in an amount equal to 5 percent of the total amount of assistance allocated under this title to such State in the fiscal year, the priority shall not apply to any applications for colonias in such State.
"(iii) This paragraph shall apply to any State for any fiscal year following 2 fiscal years in which the State obligated the total amount of assistance allocated to it under this title during each of such 2 fiscal years.

"(5) List of underserved areas.–The Secretary shall publish annually the current list of targeted underserved areas in the Federal Register.

"(6) Project preparation assistance.–

"(A) In general.–The Secretary may make grants to eligible applicants under subparagraph (D) to promote the development of affordable housing in targeted underserved areas and colonias.

"(B) Use.–A grant under this paragraph shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs incurred in preparing an application for a loan under section 502, 504, 514, 515, or 524, or a grant under section 533 (including preapplication planning, site analysis, market analysis, and other necessary technical assistance). The Secretary shall adjust the loan or grant amount under such sections to take account of project preparation costs that have been paid from grant proceeds under this paragraph and that normally would be reimbursed with proceeds of the loan or grant.

"(C) Approval.–The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

"(D) Eligibility.–For purposes of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a community housing development organization, State, unit of general local government, or agency of a State or unit of general local government.

"(E) Availability of funding.–Any amounts appropriated to carry out this paragraph shall remain available until expended.

"(7) Priority for colonias.–

"(A) In general.–In providing assistance under this title in any fiscal year described under subparagraph (B), each State in which colonias are located shall give priority to any application for assistance to be used in a colonia. The priority under this subparagraph shall not apply in such State after 5 percent of the assistance available in such fiscal year has been allocated for colonias qualifying for the priority.

"(B) Covered years.–This paragraph shall apply to any fiscal year following 2 fiscal years in which the State did not obligate the total amount of assistance allocated it under this title during each of such 2 fiscal years.

"(8) Definition of colonia.–For purposes of this subsection, the term 'colonia' means any identifiable community that–

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000;

"(C) is designated by the State or county in which it is located as a colonia;

"(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(E) was in existence and generally recognized as a colonia before the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.".

(c) Regulations.–Not later than the expiration of the 120-day period beginning on the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by this section.

SEC. 710. RURAL HOUSING INVENTORY.

(a) Transfer for Use Under Section 514.–Section 510(e)(3) of the Housing Act of 1949 (42 U.S.C. 1480(e)(3)) is amended by inserting after "fifty years" the following: ", or for use as rental units under section 514 with mortgages containing repayment terms with up to 33 years,".

(b) Transfer to For-Profit Entities.–Section 510(e) of the Housing Act of 1949 is further amended by striking "or public bodies" and inserting ", public bodies, or for-profit entities, which have good records of providing low income housing under section 515".

SEC. 711. RIGHTS OF APPEAL.

Section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)) is amended by inserting before the semicolon the following: ", except that rules issued under this subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations".

SEC. 712. SECTION 515 LOANS.

(a) Equity Takeout Loans.–Section 515(t) of the Housing Act of 1949 (42 U.S.C. 1485(t)) is amended–

(1) in paragraph (3), by striking "original loan on the project" in the last sentence and inserting "original appraised value of the project";

(2) in paragraph (4)–

(A) in the first sentence, by inserting "initial" before "loan"; and

(B) in the second sentence, by inserting "initial payments, any accrued payments, and" after "except that such" in the second sentence; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) Effective date.–The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989. This subsection shall not require retroactive reserve account payments with respect to any loan that was obligated on or after December 15, 1989, and on or before June 16, 1990, but reserve account payments shall be required for such loans beginning on the date of the enactment of this paragraph.".

(b) Reuse of Loan Authority.–Section 515(u) of the Housing Act of 1949 (42 U.S.C. 1485(u)) is amended by inserting at the end the following new sentence: "Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.".

(c) Assumption of Loans.–Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(v) Assumption of Loans.–The Secretary may provide for the assumption or transfer of a loan or loan obligation under this section to any person or entity qualified to receive a loan or loan obligation under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or loan obligation or such other terms as the Secretary determines appropriate.".

SEC. 713. SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(w) Set-Aside of Rural Rental Housing Funds.–

"(1) Authority.–Except as provided in paragraph (2), the Secretary shall set aside from amounts made available for each State for loans under this section, not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992. Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity or under whole or partial control with a for-profit entity.

"(2) Minimum state set-aside.–If the amount set aside under paragraph (1) for any State is less than $750,000 in any fiscal year, the Secretary shall pool such amount together with set-aside amounts from other States whose set-aside is less than $750,000, and shall make such amounts available for such eligible entities under paragraph (1) in any such State. The Secretary shall establish a procedure to provide that any amounts pooled under this paragraph from the allocation for any State in any fiscal year that are not obligated during a reasonable period in such year shall be made available for any such eligible entities under paragraph (1) in such State.

"(3) Unused amounts.–Any amounts set aside or pooled under this subsection from the allocation for any State in any fiscal year that are not obligated by a reasonable date established by the Secretary (which shall be after the expiration of the period under paragraph (2)) shall be made available to any entity eligible under this section in such State.".

SEC. 714. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.

(a) In General.–Section 516 of the Housing Act of 1949 (42 U.S.C. 1486 et seq.) is amended by adding at the end the following new subsection:

"(k) Housing for Rural Homeless and Migrant Farmworkers.–

"(1) In general.–The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this subsection.

"(2) Types of assistance.–

"(A) In general.–The Secretary may provide the following assistance for housing under this subsection:

"(i) An advance, in an amount not to exceed $400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure or construction of a new structure for use in the provision of housing under this subsection. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this subparagraph if the structure was not used for the purposes under this subsection prior to the receipt of assistance.

"(ii) A grant, in an amount not to exceed $400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this subsection.

"(iii) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

"(B) Available assistance.–A recipient may receive assistance under both clauses (i) and (ii) of subparagraph (A). The Secretary may increase the limit contained in such clauses to $800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

"(C) Repayment of advance.–Any advance provided under subparagraph (A)(i) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this subsection. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this subsection for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

"(D) Prevention of undue benefits.–Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this subsection prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of low income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

"(3) Program requirements.–

"(A) Applications.–

"(i) Applications for assistance under this subsection shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.
"(ii) The Secretary shall require that applications contain at a minimum (I) a description of the proposed housing, (II) a description of the size and characteristics of the population that would occupy the housing, (III) a description of any public and private resources that are expected to be made available in connection with the housing, (IV) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing, and (V) assurances satisfactory to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application.
"(iii) The Secretary shall require that an application furnish reasonable assurances that the housing will be available for occupancy by homeless individuals (and the families of such individuals) only on an emergency and temporary basis during the offseason and shall be otherwise available for occupancy by migrant farmworkers (and their families).
"(iv) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(B) Selection criteria.–The Secretary shall establish selection criteria for a national competition for assistance under this subsection, which shall include–

"(i) the ability of the applicant to develop and operate the housing;
"(ii) the feasibility of the proposal in providing the housing;
"(iii) the need for such housing in the area to be served;
"(iv) the cost effectiveness of the proposed housing;
"(v) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;
"(vi) the extent to which the applicant has control of the site of the proposed housing; and
"(vii) such other factors as the Secretary determines to be appropriate for purposes of this subsection.

"(C) Required agreements.–The Secretary may not approve assistance for any housing under this subsection unless the applicant agrees–

"(i) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in compliance with the provisions of this subsection and the application approved by the Secretary;
"(ii) to monitor and report to the Secretary on the progress of the housing; and
"(iii) to comply with such other terms and conditions as the Secretary may establish for purposes of this subsection.

"(D) Occupant rent.–Each migrant farmworker and homeless individual residing in a facility assisted under this subsection shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) Guidelines.–

"(A) Regulations.–Not later than 120 days after the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall by notice establish such requirements as may be necessary to carry

out the provisions of this subsection.

"(B) Limitation on use of funds.–No assistance received under this subsection (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

"(5) Limitation on administrative expenses.–No recipient may use more than 5 percent of an advance or grant received under this subsection for administrative purposes.

"(6) Reports to congress.–The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subsection and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year.

"(7) Definitions.–For purposes of this subsection:

"(A) The term 'applicant' means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this subsection.

"(B) The term 'homeless individual' has the same meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(C) The term 'migrant farmworker'–

"(i) means any person (and the family of such person) who (I) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment, and (II) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subclause (I); and
"(ii) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of clause (i) at the time of retirement or becoming disabled.

"(D) The term 'operating costs' means expenses incurred by a recipient providing housing under this subsection with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing.".

(b) Study of Homelessness in Rural Areas.–

(1) In general.–The Secretary of Agriculture shall conduct a study to determine the extent and characteristics of homelessness in rural areas.

(2) Report.–The Secretary of Agriculture shall submit to the Congress, not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, a report describing the findings of the Secretary under the study. The report shall contain any recommendations of the Secretary for administrative or legislative action to reduce or alleviate homelessness in rural areas.

SEC. 715. RURAL AREA CLASSIFICATION.

(a) In General.–Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended–

(1) in the first sentence–

(A) by striking "case" and inserting "cases";

(B) by inserting after "California" the following: ", and Guadalupe, in the State of Arizona"; and

(2) by striking the last sentence and inserting the following new sentence: "For purposes of this title, any area classified as

'rural' or a 'rural area' prior to October 1, 1990, and determined not to be 'rural' or a 'rural area' as a result of data received from or after the 1990 decennial census shall continue to be so classified until the receipt of data from the decennial census in the year 2000, if such area has a population in excess of 20,000 but not in excess of 25,000, is rural in character, and has a serious lack of mortgage credit for lower and moderate-income families.".

(b) Applicability.–The amendment made by this section shall apply with respect to classification of rural areas for fiscal year 1991 and any fiscal year thereafter.

SEC. 716. ASSISTANCE TO REDUCE RENT OVERBURDEN.

Section 521(a)(2)(C) of the Housing Act of 1949 (42 U.S.C. 1491(a)(2)(C)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).".

SEC. 717. HOUSING PRESERVATION GRANTS.

(a) Use of Deobligated Funds.–Section 533(c)(1) of the Housing Act of 1949 (42 U.S.C. 1490m(c)(1)) is amended by adding at the end the following: "Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years.".

(b) Reallocation.–Section 533(g) of the Housing Act of 1949 (42 U.S.C. 1490m(g)) is amended by striking the last sentence and inserting the following: "Any amounts which become available as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine.".

SEC. 718. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

(a) Extension of Authority.–Section 535 of the Housing Act of 1949 (42 U.S.C. 1490***o***) is amended in subsection (b), by striking "6-month period" and inserting "18-month period".

(b) Retroactivity.–Any administrative approval of any housing subdivision made after the expiration of the 6-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

SEC. 719. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) Rural Housing Assistance Definition.–Section 536(h) of the Housing Act of 1949 (42 U.S.C. 1490p(h)) is amended by striking the period at the end and inserting ", for the original construction or development of the project.".

(b) Prohibition on Prepayment of New Rural Housing Loans.–Section 502(c)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(1)(B)) is amended by inserting "initial" after "any".

TITLE VIII–HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A–Supportive Housing for the Elderly

SEC. 801. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) In General.–Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) is amended to read as follows:

"SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.

"(a) Purpose.–The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that–

"(1) is designed to accommodate the special needs of elderly persons; and

"(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

"(b) General Authority.–The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c) (1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure from the Resolution Trust Corporation, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

"(c) Forms of Assistance.–

"(1) Capital advances.–A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

"(2) Project rental assistance.–Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

"(3) Tenant rent contribution.–A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

"(d) Term of Commitment.–

"(1) Use limitations.–All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

"(2) Contract terms.–The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

"(e) Applications.–Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain–

"(1) a description of the proposed housing;

"(2) a description of the assistance the applicant seeks under this section;

"(3) a description of the resources that are expected to be made available in compliance with subsection (h);

"(4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

"(5) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of services identified in paragraph (4) is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve;

"(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed project is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

"(f) Selection Criteria.–The Secretary shall establish selection criteria for assistance under this section, which shall include–

"(1) the ability of the applicant to develop and operate the proposed housing;

"(2) the need for supportive housing for the elderly in the area to be served;

"(3) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

"(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

"(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;

"(6) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

"(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(g) Provisions of Services.–

"(1) In general.–In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

"(2) Local coordination of services.–The Secretary shall ensure that owners have the managerial capacity to–

"(A) assess on an ongoing basis the service needs of residents;

"(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

"(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2). Any cost associated with the employment of a service coordinator in housing principally serving frail elderly persons shall also be an eligible cost except where the project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(h) Development Cost Limitations.–

"(1) In general.–The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect–

"(A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;

"(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

"(C) the cost of special design features necessary to make the housing accessible to elderly persons;

"(D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;

"(E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;

"(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez **NationalAffordableHousingAct**; and

"(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term 'congregate space' shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

"(2) RTC properties.–In the case of existing housing and related facilities to be acquired from the Resolution Trust

Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include–

"(A) the cost of acquiring such housing,

"(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

"(C) the cost of the land on which the housing and related facilities are located.

"(3) Annual adjustments.–The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

"(4) Incentives for savings.–

"(A) Special housing account.–The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which–

"(i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez **NationalAffordableHousingAct**;
"(ii) substantially reduce the life-cycle cost of the housing;
"(iii) reduce gross rent requirements; and
"(iv) enhance tenant comfort and convenience.

"(B) Uses.–The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

"(5) Design flexibility.–The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

"(6) Use of funds from other sources.–A owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

"(i) Tenant Selection.–

"(1) In general.–An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(2) Information regarding housing under this section.–The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

"(j) Miscellaneous Provisions.–

"(1) Technical assistance.–The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

"(2) Civil rights compliance.–Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair

Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

"(3) Owner deposit.–

"(A) In general.–The Secretary shall ruire an owner to deposit an amount not to exceed $25,000 in a special escrow account to assure the owner's commitment to the housing.

"(B) Reduction of requirement.–The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section.

"(4) Notice of appeal.–The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

"(5) Labor.–

"(A) In general.–Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

"(B) Waiver.–Subparagraph (A) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

"(k) Definitions.–

"(1) The term 'elderly person' means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

"(2) The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

"(3) The term 'owner' means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

"(4) The term 'private nonprofit organization' means any incorporated private institution or foundation–

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.

"(5) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'supportive housing for the elderly' means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

"(8) The term 'very low-income' has the same meaning as given the term 'very low-income families' under section 3(b)(2) of the United States Housing Act of 1937.

"(l) Authorizations.–

"(1) Capital advances.–There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) $659,000,000 for fiscal year 1992. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct** shall constitute a revolving fund to be used by the Secretary in carrying out this section.

"(2) Project rental assistance.–For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $363,000,000 for fiscal year 1992.

"(3) Nonmetropolitan allocation.–Not less than 20 percent of the funds made available under this subtitle shall be allocated by the Secretary on a national basis for nonmetropolitan areas.".

(b) Conforming Amendment.–Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking "section 202 of the Housing Act of 1959".

(c) Effective Date and Applicability.–The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code. Regulations shall be issued for comment not later than 180 days after the date of enactment of this Act.

(d) Expedited Financing and Construction.–

(1) In general.–The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection–

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) Definition.–For purposes of this subsection, the term "supportive housing for the elderly" means housing–

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

(e) Authorization for Existing Program.–Section 202(a)(4)(C) of the Housing Act of 1959 (12 U.S.C. 1701q(a)(4)(C)) is amended–

(1) by striking all that follows "Acts" the first time it appears and inserting a period; and

(2) by adding at the end the following: "For fiscal year 1991, not more than $714,200,000 may be approved in appropriation Acts for such loans.".

SEC. 802. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) Findings and Purposes.–

(1) Findings.–The Congress finds that–

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) Purposes.–The purposes of this section are–

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of

supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and persons with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) Contracts for Congregate Services Programs.–

(1) In general.–The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n)–

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) Term of contracts.–Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) Reservation of Amounts.–For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) Eligible Activities.–

(1) In general.–A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents and nonresidents, as provided in subsection (e)), as provided in this section, that are coordinated on site.

(2) Meal services.–Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) Food stamps and agricultural commodities.–In providing meal services under this paragraph, each congregate services program–

(i) shall–
(I) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and
(II) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from

individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) Preference for nutrition providers.–In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who–

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) Retrofit and renovation.–Assistance under this section may be provided with respect to eligible housing for the elderly for–

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include–

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term “congregate space” shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) Service coordinator.–Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as “service coordinator”) who may be responsible for–

(A) working with the professional assessment committee established under subsection (f) on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d) can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) Other services.–Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) Determination of needs.–In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) Fees.–

(A) Eligible project residents.–The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) Full meal services.–The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.
(ii) Less than full meal services.–The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) Other residents and nonresidents.–Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e). Such fees shall be in an amount equal to the cost of providing the services.

(8) Direct and indirect provision of services.–Any State, Indian tribe, unit of general local government, or nonprofit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) Eligibility for Services.–

(1) Eligible project residents.–Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) Economic need.–In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) Identification.–

(A) In general.–A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) Professional assessment committee.–A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) Eligibility of other residents.–The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d).

(5) Eligibility of nonresidents.–The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) Eligible Contract Recipients and Distribution of Assistance.–The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) with–

(1) owners of eligible housing;

(2) States that submit applications in behalf of owners of eligible housing; and

(3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) Applications.–The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain–

(1) a description of the type of assistance the applicant is applying for;

(2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;

(3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;

(4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the completion of activities assisted under subsection (d);

(5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(6) a certification from the appropriate State or local agency (as determined by the Secretary) that–

(A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,

(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and

(C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

(7) a description of any fees that would be established pursuant to subsection (d); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) Selection and Evaluation of Applications and Programs.–

(1) In general.–Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of–

(A) the extent to which the activities described in subsection (d)(3) will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) Evaluation of provision of congregate services programs.–The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section–

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(i) Congregate Services Program Funding.–

(1) Cost distribution.–

(A) Contribution requirement.–In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual receipts to the extent available to supplement funds for retrofit and supportive services under this section.
(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).
(iii) Fees under subsection (d)(7) shall provide 10 percent of the cost.

(B) Exceptions.–

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act, the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 3-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 3-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.
(ii) To the extent that the limitations under subsection (d)(7) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) Eligible supplemental contributions.–If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) Prohibition of substitution of funds.–The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) Limitation.–For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) Consultation.–The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) Miscellaneous Provisions.–

(1) Use of residents in providing services.–Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of–

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) Effect of services.–Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) Eligibility and priority for 1978 act recipients.–Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) Administrative cost limitation.–A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(k) Definitions.–For purposes of this section:

(1) The term "activity of daily living" means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term "case management" means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term "congregate housing" means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term "congregate services" means services described in subsection (d) of this section.

(5) The term "congregate services program" means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term "eligible housing project" means–

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the structure under section 8(b)(2) of the United States Housing Act, as such section existed before October 1, 1983;

(C) housing assisted under section 202 of the Housing Act of 1959;

(D) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the

insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(F) housing assisted under section 516 of the Housing Act of 1949.

(7) The term "eligible resident" means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) The term "instrumental activity of daily living" means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term "local nonprofit housing sponsor" includes public housing agencies (as such term is defined in section 3(b)(6) of the United States Housing Act of 1937.

(12) The term "nonprofit", as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "elderly person" means a person who is at least 62 years of age.

(14) The term "person with disabilities" has the meaning given the term by section 811 of this Act.

(15) The term "professional assessment committee" means a committee established under subsection (e)(3)(B).

(16) The term "qualifying supportive services" means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term "Secretary concerned" means–

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(19) The term "temporarily disabled" means having an impairment that–

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term "unit of general local government"–

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(l) Reports to Congress.–

(1) In general.–Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is provided for congregate services programs under this section, an annual report–

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 803 of this Act; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) Submission of data to secretary concerned.–The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m), for the submission of data by recipients of assistance under this section to be used in the report required by paragraph (1).

(m) Regulations.–The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, jointly issue any regulations necessary to carry out this section.

(n) Authorization of Appropriations.–

(1) Authorization and use.–There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1991, and $26,100,000 for fiscal year 1991, of which not more than–

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development; and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the

Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

(2) Availability.–Any amounts appropriated under this subsection shall remain available until expended.

(o) Reserve Fund.–The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(p) Conforming Amendment.–Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended–

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) if a public housing agency renovates, converts, or combines one or more dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services in accordance with section 22 of this Act and section 802 of the Cranston-Gonzalez **NationalAffordableHousingAct**, the payments received under this section shall not be reduced because of the resulting reduction in the number of dwelling units.".

SEC. 803. HOPE FOR ELDERLY INDEPENDENCE.

(a) Purpose.–The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly persons to continue to live independently. The demonstration program under this section shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) Housing Assistance.–In connection with this demonstration, the Secretary of Housing and Urban Development may enter into contracts with public housing agencies to provide not more than 1,500 incremental vouchers and certificates under sections 8(b) and 8(o) of the United States Housing Act of 1937. A public housing agency may not require that a frail elderly person live in a particular structure or unit, but the agency may restrict the program under this section to a geographic area, where necessary to ensure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly person the option to continue to receive assistance under the housing certificate or voucher program of the agency. In the demonstration, the Secretary may also provide for supportive services in connection with existing contracts for housing assistance under sections 8(b) and 8(o).

(c) Supportive Services Requirements and Matching Funding.–

(1) Federal, pha, and individual contributions.–The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) The Secretary shall provide 40 percent, using amounts appropriated under this section.

(B) The public housing agency shall ensure the provision of at least 50 percent from sources other than under this section.

(C) Notwithstanding any other provision of law, each frail elderly person shall pay 10 percent of the costs of the supportive services that the person receives, except that a frail elderly person may not be required to pay an amount that exceeds 20 percent of the adjusted income (as the term is defined in section 3(b)(5) of the United States Housing Act of 1937) of such person and the Secretary shall provide for the waiver of the requirement to pay costs under this subparagraph for persons whose income is determined to be insufficient to provide for any payment.

(D) To the extent that the limitation under subparagraph (C) regarding the percentage of income frail elderly persons may pay for services will result in collected amounts for any public housing agency of less than 10 percent of the cost of providing the services, 50 percent of such remaining costs shall be provided by the public housing agency and 50 percent of such remaining costs shall be provided by the Secretary from amounts appropriated under this section.

(2) Provision of services for entire demonstration.–Each public housing agency shall ensure that supportive services appropriate to the needs of the frail elderly persons to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly persons assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance.

(3) Calculation of match.–In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services, if such items have a readily discernible market value.

(d) Applications.–An application under this section shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum–

(1) an application for housing assistance under section 8 of the United States Housing Act of 1937, if necessary, and a description of any such assistance already made available that will be used in the demonstration;

(2) a description of the size and characteristics of the population of frail elderly persons and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly persons to participate;

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only services that each frail elderly person needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each person and for monitoring the person's progress in meeting that plan;

(6) the identity of the proposed service providers and a statement of qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly persons to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(1);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of housing assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the persons to be served;

(11) a plan for continuing supportive services to frail elderly persons that continue to receive housing assistance under section 8 of the United States Housing Act of 1937 after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the

Older Americans Act of 1965 and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) Selection.–

(1) Criteria.–The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include–

(A) the ability of the public housing agency to develop and operate the proposed housing assistance and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly persons proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) Consultation with hhs.–In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) Funding limitations.–No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) Required Agreements.–The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees–

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the housing assistance and supportive services required by each frail elderly person participating in the program;

(3) to ensure the adequate provision of supportive services, at a reasonable cost, to each frail elderly person participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) Definitions.–For purposes of this section:

(1) The term “demonstration period” means the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a).

(2) The term “elderly person” means a person who is at least 62 years of age.

(3) The term “frail elderly person” means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(4) The term "professional assessment committee" means a group of at least 3 persons appointed by a public housing agency which shall include at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(5) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "supportive services"–

(A) means assistance, that the Secretary determines–

(i) addresses the special needs of frail elderly persons; and
(ii) provides appropriate supportive services or assists such persons in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for achieving and maintaining independent living; and

(B) does not include medical services, as determined by the Secretary.

(h) Multifamily Project Demonstration.–

(1) In general.–In addition to the demonstration program authorized by the preceding provisions of this section, the Secretary shall conduct a demonstration in one Federal region, subject to the terms and conditions of this subsection, to determine the feasibility of using housing assistance under section 8 of the United States Housing Act of 1937 to assist elderly persons who may become frail to live independently in housing specifically designed for occupancy by such persons in sufficient proportion to achieve economies of scale in the provision of services and facilities.

(2) Section 8 allocation.–From amounts provided pursuant to subsection (j) and subject to availability in appropriation Acts, the Secretary shall enter into a contract with a public housing agency to provide housing assistance under section 8(b) of the United States Housing Act of 1937 to assist elderly persons in at least 75 percent of the units in a single housing project with more than 100 units.

(3) Section 8 terms.–The assistance payment contract under such section 8 shall be attached to the structure and shall be in an initial term of 5 years. The contract shall (at the option of the public housing agency and subject to availability of amounts approved in appropriations Acts) be renewable for 3 additional 5-year terms. Rents for units in the project assisted pursuant to this subsection shall be subject to the rent limitations in effect for the area under section 8 for projects for the elderly receiving loans under section 202 of the Housing Act of 1959.

(4) Supportive services.–The Secretary shall allocate, for the project assisted pursuant to this subsection, a reasonable portion of the amounts appropriated pursuant to the authorization for funds for supportive services in subsection (k), based on the estimated number of project residents who will be frail elderly individuals during the 5-year period beginning on the date of initial occupancy of the project. Grants for supportive services may be used to assist any occupant in the demonstration project who is a frail elderly individual. Grants for supportive services under this subsection shall be subject to the other terms and conditions specified in this section.

(5) Applications.–An application for assistance under this subsection may be submitted by any unit of general local government with a population under 50,000 and shall contain such information as the Secretary deems appropriate.

(6) Selection.–The Secretary shall select one application for funding under this subsection based on the following criteria:

(A) The number of elderly persons residing in the applicant's jurisdiction.

(B) The extent of existing housing constructed prior to 1940 in the applicant's jurisdiction.

(C) The number of elderly persons living in adjacent projects to whom the services and facilities provided by the project would be available.

(D) The level of State and local contributions toward the cost of developing the project and of providing supportive services.

(E) The project's contribution to neighborhood improvement.

(i) Report.–The Secretary shall submit to Congress an annual report evaluating the effectiveness of the demonstrations under this section. The report shall include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate in evaluating the demonstration.

(j) Available Section 8 Assistance.–The Secretary may provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 in connection with the demonstrations under this section, in an amount not to exceed $34,000,000 for fiscal year 1991, and $35,500,000 for fiscal year 1992, subject to the approval of sufficient amounts in appropriations Acts under section 5 of such Act.

(k) Authorization of Appropriations.–There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section, $10,000,000 to become available in fiscal year 1991, and $10,400,000 to become available in fiscal year 1992, and remain available until expended.

(l) Implementation.–Not later than the expiration of the 180-day period beginning on the date that funds authorized for the demonstrations under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration programs authorized under this section.

SEC. 804. USE OF RESOLUTION TRUST CORPORATION ELIGIBLE PROPERTIES FOR SECTION 202 HOUSING.

(a) Authority To Purchase Resolution Trust Corporation Property for Section 202 Program.–Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C 1701q(d)(3)) is amended by adding at the end the following new sentence: "The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.".

(b) Reservation of Authority Before Purchase.–Section 202(a) of the Housing Act of 1959 (12 U.S.C. 1701q(a)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c).".

(c) 20-Year Section 8 Contracts.–Section 202(g) of the Housing Act of 1959 (42 U.S.C. 1701q(g)) is amended by inserting after the period at the end the following new sentence: "In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months.".

(d) Modification of RTC Disposition Procedures for Properties Receiving HUD or FMHA Assistance.–

(1) In general.–Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)) is amended by adding at the end the following new subparagraph:

"(D) Exception to disposition rules.–Notwithstanding the requirements under subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (3), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with the section 202 of the Housing Act of 1959.".

(2) Conforming amendment.–Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended by inserting after "Rules governing disposition of eligible multifamily housing properties.–" the following: "Except as provided under paragraph (6)(D), the Corporation shall dispose of eligible multifamily housing property as follows:".

(e) Exemption From Project Size Requirement Regarding Support Services for Frail Elderly.–Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended by inserting after the period at the end the following new sentence: "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.".

SEC. 805. CENTRALIZED APPLICATIONS FOR SECTION 202 HOUSING.

Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) is amended by adding at the end the following new subsection:

"(p) The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.".

SEC. 806. ELDER COTTAGE HOUSING UNITS.

(a) Eligibility for Insurance.–Section 2 of the National Housing Act (12 U.S.C. 1703) is amended by adding at the end the following new subsection:

"(i) For purposes of this section, the term 'manufactured home' includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling.".

(b) Demonstration Program.–

(1) In general.–The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including as an eligible development cost under section 202 of the Housing Act of 1959 the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In the conduct of the demonstration, the Secretary shall determine whether the durability of such units is appropriate for inclusion in the section 202 program.

(2) Report.–The Secretary shall transmit a report to the Congress not later than January 1, 1992 on the results of the demonstration under subsection (a).

SEC. 807. NOTICE OF REJECTION.

Section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)) is amended by adding at the end the following:

"(3) In considering applications for assistance under section 202, the Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.".

SEC. 808. SERVICE COORDINATORS AS ELIGIBLE PROJECT COST IN SECTION 202 PROJECTS.

Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)) is amended–

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) In determining the amount of assistance to be provided for a project pursuant to such section 8, subject to the availability of appropriations for contract amendments for the purpose of this paragraph the Secretary may also consider (and annually adjust for) the costs of–

"(A) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly, especially those who are frail, or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and subparagraph (B) of this subsection; and

"(B) expenses for the provision of services for elderly, especially those who are frail, and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services,

except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided. This paragraph shall not apply in the case of a project assisted under the congregate housing services program or a project where the tenants are not principally frail elderly.".

Subtitle B–Supportive Housing for Persons With Disabilities

SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) Purpose.–The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that–

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) General Authority.–The Secretary is authorized to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Such assistance shall be provided as–

(1) capital advances in accordance with subsection (d)(1), and

(2) contracts for project rental assistance in accordance with subsection (d)(2).

Such assistance may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) General Requirements.–The Secretary shall take such actions as may be necessary to ensure that–

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall–

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities, and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) Forms of Assistance.–

(1) Capital advances.–A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) Project rental assistance.–Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(3) Rent contribution.–A very low-income person shall pay as rent for a dwelling unit assisted under this section the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(e) Term of Commitment.–

(1) Use limitations.–All units in housing assisted under this section shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) Contract terms.–The initial term of a contract entered into under subsection (d)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) Applications.–Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain–

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains–

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) Selection Criteria.–The Secretary shall establish selection criteria for assistance under this section, which shall include–

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(h) Development Cost Limitations.–

(1) In general.–The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect–

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez **NationalAffordableHousingAct**; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) RTC properties.–In the case of existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include–

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) Annual adjustments.–The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) Incentives for savings.–

(A) Special project account.–The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez **NationalAffordableHousingAct**; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) Uses.–The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) Funds from other sources.–An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) Tenant Selection.–(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) Miscellaneous Provisions.–

(1) Technical assistance.–The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) Civil rights compliance.–Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and

(3) Site control.–An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) Owner deposit.–The Secretary may require an owner to deposit an amount not to exceed $10,000 in a special escrow account to assure the owner's commitment to the housing.

(5) Notice of appeal.–The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) Labor standards.–The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more persons with disabilities shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

(k) Definitions.–As used in this section–

(1) The term "group home" means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) The term "person with disabilities" means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001–7). The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important

to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(3) The term "supportive housing for persons with disabilities" means housing that–

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(4) The term "independent living facility" means a project designed for occupancy by not more than 20 persons with disabilities in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(6) The term "private nonprofit organization" means any incorporated private institution or foundation–

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(l) Authorizations.–

(1) Capital advances.–There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (d)(1), $271,000,000 for fiscal year 1992. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) Project rental assistance.–For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2), the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $246,000,000 for fiscal year 1992.

(m) Effective Date and Applicability.–

(1) In general.–The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment.

(2) Earlier applicability.–The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as

they were in effect when such assistance was made or reserved.

(3) Coordination.–When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

Subtitle C–Supportive Housing for the Homeless

PART 1–REVISED McKINNEY ACT

SEC.821.AMENDMENT TO McKINNEY ACT.

(a) In General.–Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"TITLE IV–HOUSING ASSISTANCE

"Subtitle A–General Provisions

"SEC. 401. PURPOSE.

"The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to–

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

"SEC. 402. DEFINITIONS.

"For purposes of this title–

"(1) The term 'assistance' means grants to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'grantee' means–

"(A) a State or unit of general local government receiving grants from the Secretary under section 403(a);

"(B) a group of geographically contiguous local governments that have formed a consortium that, in the determination of the Secretary–

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and
"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year, and
"(C) for purposes of section 406 and subsections (a), (b), (c), and (f) of section 407, an Indian tribe, Indian housing authority, or a private nonprofit organization receiving a direct grant under section 405.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99–500 or Public Law 99–591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to–

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to–

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means an organization–

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(12) The term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that–

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that–

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabilities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes–

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium; and any other territory or possession of the United States.

"(18) The term 'consortium' means a group of geographically contiguous local governments that the Secretary determines–

"(A) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a); and

"(B) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

"(18) The term 'very low-income families' has the same meaning given the term under section 104 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(19) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

"SEC. 403. GENERAL AUTHORITY.

"(a) Grants for Homeless Housing Assistance.–

"(1) In general.–

"(A) Grants authorized.–The Secretary shall, to the extent of amounts approved in appropriations Acts under section 408, make grants to States and units of general local government and to eligible applicants under section 405 in order to (i) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (ii) help very low-income families and persons avoid becoming homeless, and (iii) help homeless families and persons make the transition to permanent housing.

"(B) Strategy required.–A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(C) Use of project sponsors.–A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

"(2) Allocation of resources.–The amounts approved in appropriations Acts under section 408 shall be allocated in accordance with a formula established under section 404.

"(b) Eligible Activities.–Grants under this title shall be available only for approved activities. Approved activities shall include–

"(1) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(2) the development of emergency shelters for the homeless in accordance with section 412;

"(3) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(4) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(5) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(6) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(c) Limitations.–

"(1) Prevention.–A grantee may use not more than 30 percent of grants allocated under subsection (a) for homelessness prevention activities a defined in section 411.

"(2) Emergency activities.–A grantee may use not more than 30 percent of the grants allocated in accordance with subsection (a) for emergency activities as defined in section 412. The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(d) SRO Renovation.–The Secretary shall, to the extent of amounts approved in appropriations Acts for the programs authorized under section 421, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

"Subject to section 823(b) of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall issue regulations establishing an allocation formula, if any, that reflects each jurisdiction's share of the Nation's need for housing assistance for the homeless.

"SEC. 405. DISCRETIONARY ALLOCATION.

"(a) In General.–In addition to grants otherwise authorized by this title, the Secretary is authorized to make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 407.

"(b) Eligible Activities.–Assistance provided under this section may be used for approved activities under subtitle B and for–

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) Applications.–Assistance under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain–

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) Selection Criteria.–

"(1) In general.–The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account–

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources;

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness; and

"(C) the extent to which such area is not being served by current programs to assist homeless persons.

"(2) Additional criteria.–Selection criteria established by the Secretary shall also take into account–

"(A) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including in rem property, public buildings, and public land;

"(B) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(C) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(D) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) Special Rules for Supplemental Assistance for Facilities To Assist the Homeless.–

"(1) In general.–The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that–

"(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) Health services.–Not more than $10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) Guidelines.–The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"SEC. 406. RESPONSIBILITIES OF GRANTEES AND PROJECT SPONSORS.

"(a) Matching Requirements.–

"(1) In general.–Each grantee shall be required to supplement the grants provided under this title for acquisition, rehabilitation, or construction activities, except for assistance described in section 421, with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsection, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(2) State matching requirement.–Each grantee under this title that is a State shall be required to supplement the assistance provided under this title with an amount of funds from sources other than this title equal to the difference between the amount received under this title and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this title.

"(3) Benefit of match.–A State grantee shall obtain any matching amounts required under paragraph (2) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2).

"(b) Housing Quality.–Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

"(c) Consistency With Housing Strategy.–Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(d) Assistance to Homeless Persons.–Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) Limitation on Use of Funds.–Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) Civil Rights Compliance.–Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88–352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) Reports.–

"(1) In general.–Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assessment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) Consultation.–The Secretary shall consult with national associations of States, local governments, and other housing

interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle.

"(h) Site Control.–

"(1) In general.–Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) Waiver.–The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.

"(i) Prevention of Undue Benefits.–The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) Confidentiality.–Each grantee shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this title and to ensure that the address or location of any family violence shelter project assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

"(k) Additional Requirements.–The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. ADMINISTRATIVE PROVISIONS.

"(a) Limitation on Administrative Expenses.–A grantee may not use more than 5 percent of the assistance received under this subtitle for administrative purposes.

"(b) Income Eligibility.–A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) Flood Elevation Requirements.–Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) Applicability of Section 104(g) of the Housing and Community Development Act of 1974.–The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) GAO Audits.–Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary. Any amount appropriated under this section shall remain available until expended.

"SEC. 409. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with section 406(g). The report shall be submitted not later than 6 months after the end of each fiscal year.

"Subtitle B–Approved Activities

"SEC. 411. HOMELESSNESS PREVENTION.

"(a) Definition.–Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) Limitation on Financial Assistance.–A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if–

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

"(a) Definition.–A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations for homeless persons. An emergency shelter may include appropriate eating and cooking accommodations.

"(b) Minimum Standards of Habitability.–The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) Types of Assistance.–A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) Program Requirements.–A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will–

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter

for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining–

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

"(a) Definition.–A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

"(b) Types of Assistance.–A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(5) Technical assistance in–

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(6) A grant for establishing and operating an employment assistance program for the residents of transitional housing,

which shall include–

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

"(7) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include–

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or
"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and
"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) Program Requirements.–

"(1) Required agreements.–A grantee may approve assistance for a project under this section only if the project sponsor has agreed–

"(A) to operate the proposed project as transitional housing for not less than 10 years, except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) Occupant rent.–Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(3) Alternative use.–A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.

"(a) Definition.–A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities (or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons). The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) Project Design and Siting.–Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) Types of Assistance.–A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under subsection (d) (unless such assistance is no longer necessary, in the determination of the Secretary).

"(5) Technical assistance in–

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) Program Requirements.–

"(1) Required agreements.–A grantee may approve assistance for any project under this section only if the project sponsor has agreed–

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years, except that in the case of projects not receiving a grant under paragraph (1), (2), or (3) of subsection (c), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out

this program in an effective and efficient manner.

"(2) State participation.–Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State will facilitate the provision of necessary supportive services to the residents of the project;

"(3) Occupant rent.–Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) Alternative use.–A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) Tenant selection.–

"(A) In general.–A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(B) Authority to limit occupancy.–Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"(6) Renewed funding for short-term lease projects.–The Secretary may not provide assistance under paragraph (4) or (5) of subsection (c) to any project not receiving assistance under paragraph (1), (2), or (3) of such subsection unless assurances have been made under paragraph (1)(A) of this subsection that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.

"SEC. 415. TRANSITION TO PERMANENT HOUSING.

"(a) Use of Grants.–

(1) In general.–A grant under this section may be used by a grantee to provide grants or loans to help eligible families make the transition to permanent housing. A grantee may use assistance under this section to provide for the payment by very low-income families of security deposits and the cost of rent for a reasonable period of time.

"(2) Technical assistance.–The Secretary may provide informational and technical assistance to units of general local government and housing agencies in organizing and developing assistance programs under this section. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(3) Financial counseling.–The grantee shall provide counseling regarding household finances and budgeting to any family that receives a grant or loan under this section.

"(b) Limitation on Financial Assistance.–A grantee may provide assistance to eligible families in the form of a security deposit and the cost of rent for a reasonable period of time if–

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a regular income and a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time and to repay any loan provided; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) Participating Landlord.–If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C–Section 8 Single Room Occupancy

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) Use of Funds.–The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) Allocation.–The amounts made available under this subtitle shall be allocated by the Secretary on the basis of a national competition among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing–

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

"(c) Fire and Safety Improvements.–Each annual contribution contract entered into with the authority provided under this subtitle shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) Cost Limitation.–

"(1) Per unit ceiling.–The total cost of rehabilitation that may be compensated for in an annual contribution contract entered into with the authority provided under this subtitle shall not exceed $15,000 per unit, plus the expenditures required by subsection(d).

"(2) Authority to increase.–The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including–

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) Annual adjustment.–The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) Contract Requirements.–Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall–

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. APPLICABILITY TO INDIANS.

"Pursuant to section 201(b) of the United States Housing Act of 1937, this subtitle shall apply to Indian tribes and Indian housing authorities.

"Subtitle D–Shelter Plus Care Program

"PART I–SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 432. RENTAL HOUSING ASSISTANCE.

"(a) In General.–The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) Funding Limitations.–To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) Matching Funding.–

"(1) In general.–Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) Determination of matching amounts.–In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) Recapture.–If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 434. APPLICATIONS.

"(a) In General.–An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) Minimum Contents.–The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum–

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for–

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA.

"(a) In General.–The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include–

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) Funding Limitation.–No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees–

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 437. TERMINATION OF ASSISTANCE.

"(a) Authority.–If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) Procedure.–In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given that term in section 853 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(2) The term 'applicant' means–

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(6) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(7) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(10) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(11) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.–For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(b) Part III.–For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by such sums as may be necessary.

"(c) Part IV.–For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(d) Availability.–Sums appropriated under this section shall remain available until expended.

"PART II–SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary,

and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) Standards Required.–The Secretary shall require that–

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) Prohibition.–No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 446. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III–SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 439(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall–

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 454. OCCUPANCY.

"(a) Occupancy Agreement.–The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) Vacancy Payments.–If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV–SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959 in fiscal year 1991 or section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct** in fiscal year 1992 for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 611 for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) In General.–The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

(b) Prohibition.–No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E–Miscellaneous

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) Implementation.–Not later than 180 days after the date funds authorized under section 438 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle.

(c) Transition Provisions.–Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the effective date of the amendment made by this section, that are or become available for obligation shall be available for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended by this section.

SEC. 822. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person".

SEC. 823. TRANSITIONAL RULE.

(a) In General.–The amendment made by section 821 shall take effect–

(1) on October 1, 1992, or

(2) on the date specified by a statute adopting a proposed allocation formula described in subsections (b) and (c),

whichever is later.

(b) Feasibility Study.–The Secretary shall carry out a study to determine the feasibility of allocating homeless assistance by a formula that distributes housing assistance for the homeless in accordance with the relative incidence of homelessness in jurisdictions across the United States. If the Secretary determines that the use of such a formula is feasible, the Secretary shall develop one or more such formulas. In determining alternative allocation formulas, the Secretary shall consider–

(1) objective measures of the incidence of homelessness;

(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

(3) poverty;

(4) housing overcrowding; and

(5) any other relevant factors, including the reliability of data pertaining to homelessness.

(c) Report.–Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the feasibility study under this subsection. Such report shall contain any formula or formulas developed under subsection (b) together with detailed analysis of the formulas. In preparing such report, the Secretary shall consult with organizations representing homeless persons, nonprofit organizations, public housing agencies, and State and local housing and service agencies.

(d) Conforming Amendment.–Upon the adoption of a formula described in this section, that part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV–HOUSING ASSISTANCE

"Subtitle A–General Provisions

"Sec. 401. Purpose.

"Sec. 402. Definitions.

"Sec. 403. General authority.

"Sec. 404. Allocation formula.

"Sec. 405. Discretionary allocation.

"Sec. 406. Responsibilities of grantees and project sponsors.

"Sec. 407. Administrative provisions.

"Sec. 408. Authorization of appropriations.

"Sec. 409. Reports to Congress.

"Subtitle B–Approved Activities

"Sec. 411. Homelessness prevention.

"Sec. 412. Emergency shelter.

"Sec. 413. Transitional housing for the homeless.

"Sec. 414. Permanent housing for homeless persons with disabilities.

"Sec. 415. Transition to permanent housing.

"Sec. 416. Development of additional approved activities

"Subtitle C–Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.

“Sec. 461. Purpose.

“Sec. 462. Amount of assistance.

“Sec. 463. Housing standards and rent reasonableness.

“Sec. 464. Administrative fees.

“Subtitle E–Miscellaneous

“Sec. 471. Environmental review.”.

SEC. 825. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

(a) In General.–The Secretary of Housing and Urban Development shall, not than 9 months after the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, identify the States and units of general local government which use unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by July 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

(b) Contents of Strategy.–The strategy developed under this section shall specify–

(1) actions to be taken to ensure that families with children currently residing in unfit transient facilities will make a timely transition to permanent housing;

(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of unfit transient facilities as housing for homeless families with children; and

(3) changes in Federal, State, and local statutes and regulations that are needed to eliminate the use of unfit transient facilities as housing for homeless families with children.

(c) Implementation of Strategy.–To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary of Housing and Urban Development shall be authorized to use and apply the following additional resources and powers:

(1) such preferences in the allocation of resources under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(2) such limitations upon a jurisdiction’s discretion to allocate resources among approved activities under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) Definitions.–For purposes of this section the term ‘unfit transient facility’ means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary.

PART 2–AMENDMENTS TO CURRENT PROGRAM

SEC. 831. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) Inclusion of Child Care Strategy and Food Donation Strategy.–Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended–

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title;

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing a plan to encourage a program which waives certain local or State liability regulations or laws for those who wish to donate food to a nonprofit charitable organization or food bank for use in community shelters or other domiciles for the homeless, shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entities receive assistance under this title; and".

(b) Inclusion of Indian Tribes.–Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended–

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)–

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) Modification of Development and Timing, Content, and Review Standards.–

(1) Public participation process for development of plans and annual reports.–Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) Consultation.–

"(1) Requirement.–Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local

governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) Modification.–Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

"(3) Availability.–Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) Certification.–Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) Modification of timing, content, and review standards.–Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended–

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)–

(i) by striking "and services" and inserting ", services, and programs";
(ii) by striking "and" before "(B)"; and
(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 832. EMERGENCY SHELTER GRANTS PROGRAM.

(a) Authorization of Appropriations.–The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) Use of Grants for Administrative Costs.–

(1) In general.–Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.".

(2) Conforming amendment.–The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) Increase in Amount Available for Services.–Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) Treatment of Homelessness Prevention Activities.–Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) Reduction of Required Matching Amounts and Confidentiality.–

(1) Reduction.–Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended–

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) Use of benefit and confidentiality.–Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended–

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) Comprehensive homeless assistance plan.–Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(9) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) Indian Tribe Eligibility for Grants.–

(1) Definition of indian tribes.–Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) Grant assistance.–Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) Allocation and distribution of assistance.–Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended–

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) Distribution to nonprofit organizations.–The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) Reallocation of funds.–Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended–

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) Essential services cap.–Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended–

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) Initial allocation of assistance.–Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe," after "State,".

(g) Minimum Standards of Habitability.–Section 416 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376) is amended by adding at the end the following:

"(c) Minimum Standards of Habitability.–The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.".

(h) Consistency With Housing Strategy.–Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended–

(1) by striking "and" at the end of clause (2);

(2) by striking the period at the end of clause (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**.".

SEC. 833. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) Authorization of Appropriations.–Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) Authorization of Appropriations.–There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $150,000,000 for fiscal year 1992.".

(b) Maximum Number of Handicapped Residents in Permanent Housing for Handicapped.–Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) Conversion of Advances to Grants.–

(1) In general.–Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended–

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) Conversion of advance.–Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended–

(A) by striking "(b) Repayment of Advance.–" and inserting the following:

"(b) Repayment or Conversion of Advance.–

"(1) Repayment.–"; and

(B) by adding at the end the following new paragraph:

"(2) Conversion.–At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) Operating Cost Payments.–Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer necessary, in the determination of the Secretary).".

(e) Eligibility of New Construction.–Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C.

11383(a)), as amended by the preceding provisions of this section, is further amended–

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) Site Control Requirement.–Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended–

(1) by striking "(3) The Secretary" and inserting the following "(3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) Child Care Services.–Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended by inserting after paragraph (5) the following:

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include–

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or
"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and
"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.".

(h) Elimination of Site Control and Employment Assistance Programs as Selection Criteria.–Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended–

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(i) Confidentiality Requirement for Domestic Violence Shelters.–Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended–

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(j) Short-Term Leases.–

(1) 10-year requirement.–Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) Renewed funding for short-term lease projects.–Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) Renewed Funding for Short-Term Lease Projects.–The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) Indian Tribe Eligibility.–

(1) Definitions.–Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended–

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) Program requirements.–Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) Matching funds.–Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended–

(A) in subsection (a), by inserting "or Indian tribe" after "State"; and

(B) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 834. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) Authorization of Appropriations.–The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) Short-Term Leases.–

(1) 10-year requirement.–Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended–

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) Renewed funding for short-term lease projects.–Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) Renewed Funding for Short-Term Lease Projects.–The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) Confidentiality Requirement for Domestic Violence Shelters.–Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended–

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) Site Control Requirement.–Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended–

(1) by striking "(e) Site Control.–The Secretary" and inserting the following:

"(e) Site Control.–

"(1) In general.–Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) Exception.–The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 835. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) Increase in Budget Authority.–Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) Increase in Budget Authority.–The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $79,000,000 on or after October 1,

1990, and by $82,400,000 on or after October 1, 1991.".

(b) Applicability to Indian Housing Authorities.–Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) Applicability to Indian Housing Authorities.–Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 836. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

(a) In General.–Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"Assistance may be made under this title only if the grantee certifies that it is following–

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**, or

"(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

(b) Effective Date.–The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 837. SHELTER PLUS CARE.

(a) In General.–Title IV of the Stewart B. McKinney Homeless Assistance Act is amended by adding at the end the following:

"Subtitle F–Shelter Plus Care Program

"PART I–SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 451. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 452. RENTAL HOUSING ASSISTANCE.

"(a) In General.–The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) Funding Limitations.–To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all

funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 453. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) Matching Funding.–

"(1) In general.–Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) Determination of matching amounts.–In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) Recapture.–If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 454. APPLICATIONS.

"(a) In General.–An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) Minimum Contents.–The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum–

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 453;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct** that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will

be provided;

"(10) a plan for–

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 455. SELECTION CRITERIA.

"(a) In General.–The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include–

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) Funding Limitation.–No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 456. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees–

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 457. TERMINATION OF ASSISTANCE.

"(a) Authority.–If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) Procedure.–In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 458. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the meaning given such term in section 853 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(2) The term 'applicant' means–

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'nonprofit organization' has the meaning given such term by section 104 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(6) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct**.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act

of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 459. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.–For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $80,400,000 for fiscal year 1991, and $167,200,000 for fiscal year 1992.

"(b) Part III.–For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $24,800,000 on or after October 1, 1990, and $54,200,000 on or after October 1, 1991.

"(c) Part IV.–For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $18,000,000 for fiscal year 1991, and $37,200,000 or fiscal year 1992.

"(d) Availability.–Sums appropriated under this section shall remain available until expended.

"PART II–SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 462. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 463. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 464. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) Standards Required.–The Secretary shall require that–

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) Prohibition.–No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 465. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 466. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III–SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 471. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 459(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 472. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 459(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 473. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 459(b) shall–

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 474. OCCUPANCY.

"(a) Occupancy Agreement.–The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) Vacancy Payments.–If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV–SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 481. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959, section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct** for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 611, as appropriate for the purpose of providing such rental housing assistance.

"SEC. 482. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 483. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) In General.–The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient

make at least annual inspections of each unit during the contract term.

"(b) Prohibition.–No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 484. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

(b) Implementation.–Not later than 180 days after the date funds authorized under section 459 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle.

(c) Transition Provisions.–Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of enactment made by this section, that are or become available for obligation shall be available for use under subtitle F of title IV of the McKinney Act, as amended by this section.

(d) Conforming Amendment.–That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"Subtitle D–Shelter Plus Care Program

"PART I–SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 451. Purpose.

"Sec. 452. Rental housing assistance.

"Sec. 453. Supportive services requirements; matching funding.

"Sec. 454. Applications.

"Sec. 455. Selection criteria.

"Sec. 456. Required agreements.

"Sec. 457. Termination of assistance.

"Sec. 458. Definitions.

"Sec. 459. Authorization of appropriations.

"PART II–SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

PART 3–EFFECTIVE DATE

SEC. 841. EFFECTIVE DATE.

If the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 is enacted before the enactment of this Act, the provisions of this subtitle and the amendments made by this subtitle shall not take effect.

Subtitle D–Housing Opportunities for Persons With AIDS

SEC. 851. SHORT TITLE.

This subtitle may be cited as the “AIDS Housing Opportunity Act”.

SEC. 852. PURPOSE.

The purpose of this title is to provide States and localities with the resources and incentives to devise long-term

comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome.

SEC. 853. DEFINITIONS.

For purposes of this subtitle:

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "applicant" means a State, a unit of general local government, or a nonprofit sponsor receiving assistance from a grantee.

(3) The term "low-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "grantee" means a State or unit of general local government receiving grants from the Secretary under this subtitle.

(5) The term "metropolitan area" means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term "locality" means the geographical area within the jurisdiction of a local government.

(7) The term "recipient" means a grantee or other applicant receiving funds under this title.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

(10) The term "unit of general local government" has the same meaning as in 104 of this Act.

SEC. 854. GENERAL AUTHORITY.

(a) Grants Authorized.–The Secretary shall, to the extent of amounts approved in appropriations Acts under section 863, make grants to States and units of general local government.

(b) Eligibility.–A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of this Act. A grantee shall carry out activities authorized under this subtitle through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

(c) Allocation of Resources.–

(1) In general.–90 percent of the amounts approved in appropriations Acts under section 863 shall be allocated among eligible grantees on the basis of the incidence of acquired immuno- deficiency syndrome. Of the amounts made available under the previous sentence, the Secretary shall allocate–

(A) 75 percent among units of general local government located in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome and States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in subparagraph (A), and

(B) 25 percent among units of general local government in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, that have a higher than average per capita incidence of acquired immunodeficiency syndrome.

(2) Minimum grant.–Subject only to the availability of amounts pursuant to appropriations Acts under section 863, for each fiscal year each eligible grantee under paragraph (1) shall receive funding according to its proportionate share of the total, except that each entity shall receive a minimum allocation of $200,000 from subparagraphs (A) and (B) of paragraph (1) combined, and any increase this entails from the formula amount will be deducted from all other allocations exceeding $200,000 on a pro rata basis. If allocation under subparagraph (A) of paragraph (1) would allocate less than $200,000 for any State, the allocation for such State shall be $200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any eligible entity to less than $200,000.

(3) Noneligible grantees.–

(A) In general.–10 percent of the amounts appropriated under section 863 shall be distributed to grantees and recipients by the Secretary–

(i) to meet housing needs in States and localities that do not qualify under paragraph (1), or that do qualify under paragraph (1) but do not have an approved housing strategy under section 105 of this Act, and
(ii) to fund special projects of national significance.

(B) Selection.–In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of persons with acquired immunodeficiency syndrome in the community; (iii) extent of local planning and coordination of housing programs for persons with acquired immunodeficiency syndrome; and (iv) the likelihood of the continuation of State and local efforts.

(C) National significance projects.–For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for persons with acquired immunodeficiency syndrome; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) Applications.–Funds made available under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain–

(1) a description of the proposed activities;

(2) a description of the size and characteristics of the population that would be served by the proposed activities;

(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this subtitle;

(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and

(6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) Additional Requirement for Metropolitan Areas.–In addition to the requirements of subsection (b), to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

SEC. 855. ELIGIBLE ACTIVITIES.

Grants allocated under this subtitle shall be available only for approved activities to carry out strategies designed to prevent homelessness among such persons with acquired immunodeficiency syndrome. Approved activities shall include activities that–

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 857;

(2) facilitate the development and operation of shelter and services for such persons under section 858;

(3) provide short-term rental assistance to such persons under section 859;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 860;

(5) facilitate the development of community residences for eligible persons with acquired immunodeficiency syndrome under section 861;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

SEC. 856. RESPONSIBILITIES OF GRANTEES.

(a) Prohibition of Substitution of Funds.–Amounts received from grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(b) Capability.–The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this subtitle.

(c) Cooperation.–The recipient shall agree to cooperate and coordinate in providing assistance under this subtitle with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for individuals with acquired immunodeficiency syndrome or related diseases and other public and private organizations and agencies providing services for such individuals.

(d) No Fee.–The recipient shall agree that no fee will be charged of any low-income individual for any services provided with amounts from a grant under this subtitle and that if fees are charged of any other individuals, the fees will be based on the income and resources of the individual.

(e) Confidentiality.–The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this subtitle and any other information regarding individuals receiving such assistance.

(f) Financial Records.–The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this subtitle.

SEC. 857. GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES.

Grants under this section may only be used for the following activities:

(1) Housing information services.–To provide (or contract to provide) counseling, information, and referral services to assist individuals with acquired immunodeficiency syndrome or related diseases to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) Resource identification.–To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for individuals with acquired immunodeficiency syndrome or related diseases.

SEC. 858. AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES.

(a) Use of Grants.–Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to individuals with acquired immunodeficiency syndrome or related diseases who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

(1) Short-term supported housing.–Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

(2) Short-term housing payments assistance.–Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) Supportive services.–Providing supportive services, to individuals assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services.

(4) Maintenance and administration.–Providing for maintenance, administration, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs relating to any short-term supported housing provided under the demonstration program under this section.

(5) Technical assistance.–Providing technical assistance to such individuals to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(b) Program Requirements.–

(1) Minimum use period for structures.–

(A) In general.–Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases–

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and
(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) Waiver.–The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of

the Secretary, that–

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and
(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) Residency and location limitations on short-term supported housing.–

(A) Residency.–A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) Location.–A facility for short-term supported housing assisted with amounts from a grant under this section may not be located in or contiguous to any other facility for emergency or short-term housing that is not limited to use by individuals with acquired immunodeficiency syndrome or related diseases.

(C) Waiver.–The Secretary may, as the Secretary determines appropriate, waive the limitations under subparagraphs (A) and (B) for any program or short-term supported housing facility.

(3) Term of assistance.–

(A) Supported housing assistance.–A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) Housing payments assistance.–A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(4) Placement.–A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) Presumption for independent living.–In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) Case management services.–A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

SEC. 859. SHORT-TERM RENTAL ASSISTANCE.

(a) Use of Funds.–

(1) In general.–Grants under this section may be used only for assistance to provide short-term rental assistance for low-income individuals with acquired immunodeficiency syndrome or related diseases. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 8 of the United States Housing Act of 1937. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) Shared housing arrangements.–Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to nonelderly

individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(b) Limitations.–A recipient under this section shall comply with the following requirements:

(1) Services.–The recipient shall provide for qualified service providers in the area to provide appropriate services to the individuals assisted under this section.

(2) Intensive assistance.–For any individual who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 860. SINGLE ROOM OCCUPANCY DWELLINGS.

(a) Use of Grants.–Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 8(n) of the United States Housing Act of 1937.

(b) Limitation.–Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) Services.–Appropriate services provided by qualified service providers in the area.

(2) Intensive assistance.–For any individual who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 861. GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) Grant Authority.–The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for persons with acquired immunodeficiency syndrome or related diseases.

(b) Community Residences and Services.–

(1) Community residences.–

(A) In general.–A community residence under this section shall be a multiunit residence designed for individuals with acquired immunodeficiency syndrome or related diseases for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.
(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.
(iii) To prevent homelessness among individuals with acquired immunodeficiency syndrome or related diseases by increasing available suitable housing resources.
(iv) To integrate individuals with acquired immunodeficiency syndrome or related diseases into local communities and provide services to maintain the abilities of such individuals to participate as fully as possible in community life.

(B) Rent.–Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low-income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) Fees.–Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) Section 8 assistance.–Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection for tenant-based certificates or vouchers.

(2) Services.–Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) Use of Grants.–Any amounts received from a grant under this section may be used only as follows:

(1) Community residences.–For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) Physical improvements.–Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) Operating costs.–Operating costs for a community residence.

(C) Technical assistance.–Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses.

(D) In-house services.–Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) Services.–For providing services under subsection (b)(2) to any individuals assisted under this subtitle.

(3) Administrative expenses.–For administrative expenses related to the planning and execution of activities under this section, except that a jurisdiction that receives a grant under this section may expend not more than 10 percent of the amount received under the grant for such administrative expenses. Administrative expenses under this paragraph may include expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases, for staff carrying out activities assisted with a grant under this section and for individuals who reside in proximity of individuals assisted under this subtitle.

(d) Limitations on Use of Grants.–

(1) Community residences.–Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) Service agreement.–That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to individuals assisted by the community residence.

(B) Funding and capability.–That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases.

(C) Zoning and building codes.–That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) Intensive assistance.–That, for any individual who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) Services.–Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases.

SEC. 862. REPORT.

Any organization or agency that receives a grant under this subtitle shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this subtitle, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $75,000,000 for fiscal year 1991, and $156,500,000 for fiscal year 1992.

TITLE IX–COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A–Community and Neighborhood Development and Preservation

SEC. 901. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) Community Development Block Grants.–Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second sentence and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $3,137,000,000 for fiscal year 1991 and $3,272,000,000 for fiscal year 1992. Of any amounts appropriated under this section, the Secretary shall, to the extent approved in appropriation Acts, make available–

"(1) not less than $3,000,000 in each of fiscal years 1991 and 1992 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management,

"(2) not less than $6,500,000 for fiscal year 1991 and $6,500,000 for fiscal year 1992 in the form of grants to historically black colleges,

"(3) not less than $7,000,000 for fiscal year 1991 and $7,000,000 for fiscal year 1992 for grants in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

"(4) not less than $500,000 in fiscal year 1991 for grants to demonstrate the feasibility of developing an integrated database system and computer mapping tool for the compliance, programming, and evaluation of community development block grants.".

(b) Limitation on Loan Guarantees.–The last sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $300,000,000 during fiscal year 1991 and $300,000,000 during fiscal year 1992.".

(b) Payments With Respect to Indian Housing.–Section 107(a) of the Housing and Urban Development Act of 1974 (42 U.S.C. 5307(a)) is amended–

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services with respect to Indian housing;".

SEC. 902. TARGETING COMMUNITY DEVELOPMENT BLOCK GRANT ASSISTANCE.

(a) Primary Objective.–The second sentence of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by striking "60 percent" and inserting "70 percent".

(b) Certification Regarding Activities.–Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended by striking "60 percent" and inserting "70 percent".

SEC. 903. COMMUNITY DEVELOPMENT CITY AND COUNTY CLASSIFICATIONS.

(a) Metropolitan Cities.–Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended–

(1) by striking the second sentence and inserting the following: "Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.";

(2) in the fourth sentence, by striking "for fiscal year 1988 or 1989"; and

(3) in the last sentence, by striking–

(A) "the first or second sentence of"; and

(B) "under such first or second sentence".

(b) Urban Counties.–Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(B)) is amended to read as follows:

"(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A), (C), or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.".

(c) Relinquishment of Entitlement Status.–

(1) Relinquishment by metropolitan city.–Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as amended by subsection (a), is further amended by inserting after the period at the end the following: "Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 106 as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 106 from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence".

(2) Inclusion with urban county.–Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended–

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause (I) the county must have a combined population of not less than 195,000, (II) more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies.".

(3) Applicability.–The amendments made by this subsection shall apply with respect to assistance under title I of the Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 904. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) In General.–Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.".

(b) Applicability.–The amendment made by subsection (a) shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

SEC. 905. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

Section 104(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(c)) is amended to read as follows:

"(c) A grant may be made under section 106(b) only if the unit of general local government certifies that it is following–

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez **NationalAffordableHousingAct**, or

"(2) a housing assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

SEC. 906. PROTECTION OF INDIVIDUALS ENGAGING IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(l) Protection of individuals engaging in non-violent civil rights demonstrations.–No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any unit of general local government that–

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.".

SEC. 907. CDBG ELIGIBLE ACTIVITIES.

(a) Economic Development Projects Through For-Profit Entities.–Section 105(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(17)) is amended to read as follows:

"(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that–

"(A) creates or retains jobs for low- and moderate-income persons;

"(B) prevents or eliminates slums and blight;

"(C) meets urgent needs;

"(D) creates or retains businesses owned by community residents;

"(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

"(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);".

(b) Direct Homeownership Assistance.–

(1) In general.–Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended–

(A) in paragraph (18), by striking "and" at the end;

(B) in paragraph (19), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(20) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to–

"(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

"(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

"(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

"(D) provide up to 50 percent of any downpayment required from low-or moderate-income homebuyer; or

"(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers.".

(2) Termination.–Effective on October 1, 1992 (or October 1, 1993, if the Secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under title II of the Cranston-Gonzalez **NationalAffordableHousingAct**), section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended–

(A) in paragraph (18), by inserting "and" at the end;

(B) in paragraph (19), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (20).

SEC. 908. PUBLIC SERVICES.

(a) Statewide Ceiling.–Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by inserting after "unit of general local government" the third time it appears "(or in the case of nonentitled communities not more than 15 per centum statewide)".

(b) Program Income.–Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting after "under this title" the second place it appears "including program income".

SEC. 909. AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS.

(a) In General.–Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act (42 U.S.C. 5304(h)).

(b) Applicability.–This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1992 and any fiscal year thereafter.

SEC. 910. COMMUNITY DEVELOPMENT LOAN GUARANTEES.

(a) Statement of Purpose and Objectives.–

(1) Purposes.–The purposes of the amendments made by this section are–

(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

(2) Objectives.–In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of–

(A) encouraging local governments to establish public-private partnerships;

(B) preserving housing affordable for persons of low and moderate income; and

(C) creating permanent employment opportunities, primarily for persons of low and moderate income.

(b) Guarantee of Loans Issued by Nonentitlement Communities and Territories.–

(1) Eligibility.–

(A) In general.–Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by striking "unit of general local government" or "units of general local government" each place such terms appear and inserting "eligible public entity" or "eligible public entities", respectively.

(B) Conforming amendment.–Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by striking "unit or agency" and inserting "entity or agency".

(2) Guarantee of housing construction and other loans.–Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended in the first sentence–

(A) by striking "; or" and inserting a semicolon; and

(B) by inserting before the period at the end the following: "; or (4) construction of housing by nonprofit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 or title VI of the Housing and Community Development Act of 1987".

(3) State assistance in applications.–Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(n) Any State that has elected under section 106(d)(2)(A) to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.".

(4) State grants as security.–

(A) In general.–Section 108(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)) is amended–

(i) by inserting "(1)" after "(d)";
(ii) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively; and
(iii) by adding at the end the following new paragraph:

"(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this title as security for notes or other obligations and

charges issued under this section by any unit of general local government in a nonentitlement area in the State.".

(B) Repayments.–Section 108(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(e)) is amended by striking "subsection (d)(2)" and inserting "paragraphs (1)(B) and (2) of subsection (d)".

(5) Definition.–Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this section) is further amended by adding at the end the following new subsection:

"(o) For purposes of this section, the term 'eligible public entity' means any unit of general local government, including units of general local government in nonentitlement areas.".

(c) Loan Repayment Period.–Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)), as amended by the preceding provisions of this Act, is further amended by inserting after the third sentence the following: "The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.".

(d) Outstanding Loan Guarantee Amount Per Issuer.–Section 108(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(b)) is amended–

(1) by inserting after "this section" the following: "(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))";

(2) by striking "three" and inserting "5"; and

(3) by inserting "or 107" after "section 106".

(e) Allocation of Loan Guarantees and Monitoring of Amount Guaranteed for Each Community.–

(1) Allocation of guarantees.–Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new sentence: "Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.".

(2) Monitoring of guarantees per community.–Section 108(k) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)) is amended–

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may–

"(A) impose limitations on the amount of guarantees any one entity may receive in any fiscal year of $35,000,000 for units of general local government receiving grants under section 106(b) and $7,000,000 for units of general local government receiving grants under section 106(d); or

"(B) request the enactment of legislation increasing the aggregate limitation on guarantees under this section.".

(f) Debt Payment Assistance.–Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by adding at the end the following: "The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.".

(g) Training and Information.–Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this Act) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990.

"(2) The Secretary may use amounts set aside under section 107 to carry out this subsection.".

(h) Annual Report.–Section 113(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5313(a)) is amended–

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of the activities carried out under section 108.".

(i) Regulations.–To carry out the amendments made by this section, the Secretary of Housing and Urban Development shall–

(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act; and

(2) issue final regulations not later than 180 days after the date of the enactment of this Act.

SEC. 911. HAWAIIAN HOME LANDS.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands.".

SEC. 912. PROHIBITION OF DISCRIMINATION ON BASIS OF RELIGION UNDER CDBG PROGRAM.

(a) In General.–Section 109(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5309(a)) is amended by inserting "religion," after "national origin,".

(b) Applicability.–The amendment made by subsection (a) shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act.

SEC. 913. TECHNICAL CORRECTIONS REGARDING CDBG FOR INDIAN TRIBES.

(a) Inapplicability of Low and Moderate Income Requirements.–Section 101(c) of the Housing and Community

Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting "to States and units of general local government" after "Federal assistance provided" the first place it appears.

(b) Allocation and Distribution of Funds.–

(1) Set-aside for indian tribes.–

(A) Repeal.–Section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) is amended by striking paragraph (7).

(B) Replacement.–Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended by striking "Sec. 106. (a)" and all that follows through the end of subsection (a) and inserting the following:

"Sec. 106. (a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use under section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(2) Allocation to metropolitan cities and urban counties.–Paragraphs (1) and (2) of section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) are amended by striking "After taking into account the set-aside for Indian tribes under paragraph (7), the" each place it appears and inserting "The" in each place.

(3) Allocation to nonentitlement areas.–Section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "section 107 and section 119" and inserting in lieu thereof "section 106(a)(1) and (2)".

(c) Program Requirements for Grants to Indian Tribes.–Section 107(e)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(e)(2)) is amended by inserting ", section 106(a)(1)," after "this section".

(d) Administration of Grants to Indian Tribes.–Section 702(c) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 5306 note) is repealed.

(e) Applicabilty of HUD Reform Act.–Section 702(e) of the Department of Housing and Development Reform Act of 1989 (42 U.S.C. 5306 note) is amended by striking "1991" and inserting "1990".

(f) Applicabilty.–

(1) In general.–Except as provided in paragraph (2), the amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1990 and each fiscal year thereafter.

(2) Grants in fiscal year 1990.–The Secretary of Housing and Urban Development may make grants to Indian tribes pursuant to the amendments made by this section with any amounts approved in any appropriation Act under section 103

for fiscal year 1990 for grants to Indian tribes, and the first sentence of section 106(a)(1) of the Housing and Community Development Act of 1974 (as amended by this Act) shall not apply to such grants.

SEC. 914. URBAN HOMESTEADING.

(a) Acquisition of Properties From the Resolution Trust Corporation.–Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e) is amended–

(1) by redesignating subsections (l), (m), and (n) as subsections (m), (n), and (o), respectively; and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Secretary may acquire from the Resolution Trust Corporation eligible single family properties (as such term is defined in section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk (as agreed to by the Secretary and the Resolution Trust Corporation), for transfer to units of general local government or a State, or qualified community organizations or public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary under this section and other disposition as provided under this subsection. Such properties shall be suitable for use in connection with approved urban homesteading programs, as determined by the Secretary.

"(2) The acquisition price paid by the Secretary to the Resolution Trust Corporation for properties under paragraph (1) shall be in an amount to be agreed upon by the Secretary and the Resolution Trust Corporation for each property and shall include discounts for bulk purchase and for the estimated costs and other expenses of the Secretary related to holding a property until its transfer for use in connection with an urban homesteading program or other disposition under this subsection. Notwithstanding the preceding sentence, the price paid by the Secretary for acquisition of a property under this subsection may not exceed 50 percent of the fair market value of the property, as valued individually.

"(3) If a unit of general local government, State, community organization, or public agency cannot make timely use under an urban homesteading program of a property acquired by the Secretary under this subsection, or if the property is found to be unsuitable for such use after acquisition, the Secretary may deal with, complete, rent, secure, repair, renovate, modernize, insure, or sell for cash or credit (at a price determined by the Secretary), in the discretion of the Secretary, any property purchased under this subsection. The Secretary may use the proceeds from any sales to offset any costs or other expenses related to holding properties acquired under this subsection.

"(4) After determining suitability of property under paragraph (1), the Secretary may acquire property from the Resolution Trust Corporation for more than the maximum amount that the Secretary, by regulation, has established for reimbursement for properties transferred for urban homesteading uses under this section. The local government, State, organization, or agency administering the urban homesteading program under which an individual or family receives such a property shall pay to the Secretary (in a manner as the Secretary shall provide) the amount by which the acquisition price paid by the Secretary to the Resolution Trust Corporation is greater than such maximum amount. The local government, State, or organization or agency may recover some or all of the amount paid to the Secretary by the administering agency, as the Secretary shall provide. Any property acquired pursuant to this subsection may be transferred, under an urban homesteading program under this section, only to individuals and families who are lower income families (as such term is defined in subsection (h)(3)).

"(5) For purposes of this subsection, a bulk acquisition of properties shall involve not less than 100 properties.

"(6) In using properties acquired under this subsection, each urban homesteading program shall provide for preference in conveying such properties under the program to residents of public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) who meet all eligibility criteria under this section.".

(b) Neighborhood Improvement Strategy.–Section 810(b)(6) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(b)(6)) is amended by striking the period at the end and inserting the following: ", except that this paragraph shall not apply with respect to any group of 10 or less properties obtained for use under an urban homesteading program if

the properties (A) are located in any single census tract, and (B) were acquired by the Secretary from the Resolution Trust Corporation pursuant to subsection (l).".

(c) RTC Disposition Procedures.–Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)), as amended by section 804 of this Act, is further amended by adding at the end the following new subparagraph:

"(E) Urban homesteading acquisition.–

"(i) In providing for bulk acquisition of eligible single family properties by the Secretary under section 810(l) of the Housing and Community Development Act of 1974 and by participating jurisdictions for inclusion in affordable housing activities assisted under title II of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed 50 percent of the fair market value of the property, as valued individually.

"(ii) To the extent necessary to facilitate sale of properties to the Secretary and participating jurisdictions, the requirements of paragraphs (2), (5), and (6)(A) of this subsection shall not apply to such transactions and property involved in such transactions.

"(iii) To facilitate acquisitions by the Secretary and participating jurisdictions, the Corporation shall provide the Secretary and participating jurisdictions with an inventory of eligible single family properties, not less than 4 times each year.".

SEC. 915. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) To the extent provided in appropriations Acts, of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $2,000,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 shall be available to carry out this section.".

SEC. 916. CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) Set-Aside for Colonias.–The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

(1) First fiscal year.–For the first fiscal year to which this section applies, 10 percent.

(2) Succeeding fiscal years.–For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

(b) Eligible Activities.–Assistance distributed pursuant to this section may be used only to carry out the following activities:

(1) Planning.–Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of–

(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

(B) preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

(2) Assessments for public improvements.–The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(c) Distribution of Assistance.–Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

(d) Applicable Law.–Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(e) Definitions.–For purposes of this section:

(1) Colonia.–The term "colonia" means any identifiable community that–

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) Nonprofit organization.–The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) Persons of low and moderate income.–The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) United states-mexico border region.–The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(f) Applicability.–This Act shall apply only with respect to fiscal years 1991, 1992, and 1993.

SEC. 917. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) Findings.–The Congress finds that–

(1) protecting the existing stock of unsubsidized privately held lower income housing through the rehabilitation and revitalization of declining neighborhoods is essential to a national housing policy that seeks to increase the availability of affordable housing for low- and moderate-income families;

(2) the Neighborhood Reinvestment Corporation, the anchor of the national neighborhood housing services network, was chartered by Congress more than 10 years ago to revitalize neighborhoods for the benefit of current residents by mobilizing public, private, and community resources at the neighborhood level;

(3) the national neighborhood housing services network has proven its worth as a successful cost-effective program relying largely on local initiative for the specific design of local programs;

(4) the national neighborhood housing services network has had more than 10 years of experience in revitalizing declining neighborhoods, creating housing for low- and moderate-income families, and equipping residents with skills and resources required to maintain safe and healthy communities; and

(5) expanding upon the existing capabilities, resources, and potential of the national neighborhood housing services network is a cost-effective response to the affordable housing and neighborhood revitalization needs confronting the Nation, and is a strong preventive measure in addressing the national tragedy of homelessness.

(b) Purpose.–It is the purpose of this section to authorize appropriations for the Neighborhood Reinvestment Corporation for fiscal years 1991 and 1992 to permit the corporation–

(1) to carefully expand the capacities of the national neighborhood housing services network;

(2) to begin to meet the urgent need for neighborhood housing services and mutual housing associations in neighborhoods across the Nation as the effort to preserve affordable housing for low- and moderate-income American families increases;

(3) to increase and provide ongoing technical and capacity development assistance to neighborhood housing services and related public-private partnership-based nonprofit institutions involved in the revitalization of neighborhoods for the benefit of current residents, rehabilitation, preservation of existing housing stock, and production of additional housing opportunities for low- and moderate-income families;

(4) to expand the loan purchase capacity of the national neighborhood housing services secondary market, operated by Neighborhood Housing Services of America, for loans made by neighborhood housing services to residents who are unable to meet conventional lending standards, and other loans for community development purposes;

(5) to provide increased capacity development and matching grants to preserve existing privately held unsubsidized rental housing affordable to low- and moderate-income households and to create flexible strategies effective in the diverse economic and geographic environments of the Nation;

(6) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990;

(7) to increase the resources available to neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families;

(8) to expand the national mutual housing association demonstration by providing technical assistance and matching grants to assist low- and moderate-income families to participate in such associations;

(9) to increase resources available to neighborhood housing services network programs for foreclosure intervention and prevention; and

(10) to create additional neighborhood housing services partnership organizations to serve rural communities, Native Americans, Native Hawaiians, and other communities in need.

(c) Authorization of Appropriations.–Section 608(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the corporation to carry out this title $35,000,000 for fiscal year 1991 and $36,500,000 for fiscal year 1992. Not more than 15 percent of any amount appropriated under this paragraph for any fiscal year may be used for administrative expenses.

"(2) Of the amount appropriated pursuant to this subsection for each of the fiscal years 1991 and 1992, amounts

appropriated in excess of the amount necessary to continue existing services of the Neighborhood Reinvestment Corporation in revitalizing declining neighborhoods shall be available–

"(A) to expand the national neighborhood housing services network and to assist network capacity development, including expansion of rental housing resources;

"(B) to expand the loan purchase capacity of the national neighborhood housing services secondary market operated by Neighborhood Housing Services of America;

"(C) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990;

"(D) to increase the resources available to the national neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families; and

"(E) to provide matching capital grants, operating subsidies, and technical services to mutual housing associations for the development, acquisition, and rehabilitation of multifamily and single-family properties (including properties owned by the Secretary of Housing and Urban Development) to ensure affordability by low- and moderate-income families.".

SEC. 918. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS AND CERTAIN OTHER COMMUNITY DEVELOPMENT AND PUBLIC FACILITY FUNDS.

(a) Luzerne County, Pennsylvania.–Notwithstanding any other provision of law or other requirement, the city of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the county of Luzerne and in the State of Pennsylvania, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B–79–UR–42–0001) in the city of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA–R–617 and No. B–79–UR–42–0007) in the borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA–R–613 and No. B–79–UR–42–0003) in the borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Nanticoke, the borough of Plymouth, and the borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(b) Vallejo, California.–Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(c) New Haven, Connecticut.–Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R–2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(d) Lebanon, Pennsylvania.–Notwithstanding any other provision of law or other requirement, the city of Lebanon, Pennsylvania, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Southside Urban Renewal Project (No. R–635(C)), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Lebanon shall retain such funds in a lump sum and shall be entitled to retain and

use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(e) East Stroudsburg, Pennsylvania.–Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, Pennsylvania, is authorized to retain any land disposition proceeds from the financial closeout of the Courtland Plaza Urban Renewal Project (No. PA–R–352) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such proceeds, including any interest.

(f) Fairmount Heights, Maryland.–Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD–18–PFL003) issued July 1, 1969, under title II of the Housing Amendments of 1965. The Town of Fairmount Heights is relieved of all liability to the Federal Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

(g) Newburyport, Lawrence, and Malden, Massachusetts.–Notwithstanding any other provision of law or other requirement, the cities of Newburyport, Lawrence, and Malden, all in Massachusetts, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Central Business Urban Renewal Project (No. MASS–R–80) in the city of Newburyport, the Theatre Row Redevelopment Project (No. MASS–R–61) in the city of Lawrence, and the Civic Center Urban Renewal Project (No. MASS–R–118) in the city of Malden, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The cities of Newburyport, Lawrence, and Malden shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(h) Budget Compliance.–This section shall be effective only to the extent provided in appropriations Acts.

SEC. 919. STUDY REGARDING AVAILABILITY OF HOUSING PROXIMATE TO PLACES OF EMPLOYMENT.

(a) In General.–The Secretary of Housing and Urban Development shall conduct a study regarding the availability of housing within reasonable proximity of places of employment. The study shall–

(1) identify causes of, and factors relating to, the geographic divergence of available housing for low- and moderate-income families from places of employment for working members of such families; and

(2) propose methods for preventing such divergence and for providing housing within reasonable proximity of places of employment, without promoting establishment of cottage industries or housing developments for employees owned or controlled by the employer.

(b) Study Requirements.–In carrying out the study under this section the Secretary of Housing and Urban Development shall–

(1) use, to the extent available and practicable, existing regional plans and strategies developed or implemented by public, private, and nonprofit environmental organizations and regulatory entities;

(2) select and analyze one particular region of the Nation or one State in which employment opportunities are available, relative to the remainder of the Nation, but for which lack of available housing is an acute problem; and

(3) give priority to analysis of regions and metropolitan areas not complying with Federal laws and regulations relating to clean air standards.

(c) Report.–Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the

Secretary of Housing and Urban Development shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results and conclusions of the study conducted under this section. The report shall also contain proposed strategies for adoption by local, regional, and State governmental agencies, in consultation with nonprofit organizations, to increase the availability of housing for low- and moderate-income families within reasonable proximity of places of employment for working members of such families and prevent the geographical divergence of such housing and places of employment.

SEC. 920. ALLOCATION OF FUNDS UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

The Secretary of Housing and Urban Development shall, not later than July 1, 1991, report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the formula factors, and the weights that are assigned to the formula factors. The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and the desirability of including at an equal or greater weight the age of housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the purposes of title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after receipt of the report. The study shall be completed using the data derived from the 1990 census.

SEC. 921. STUDY ON TURNING DRUG ZONES INTO OPPORTUNITY ZONES.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities.

SEC. 922. COMMUNITY DEVELOPMENT PLANS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(1) Community Development Plans.–

"(1) In general.–Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its nonhousing community development needs and strategies for meeting those needs.

"(2) Local governments.–In the case of a recipient that is a unit of general local government–

"(A) prior to the submission required by paragraph (1), the recipient shall consult with adjacent units of general local government and hold one or more public hearings to obtain the views of citizens on community development needs; and

"(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by

regulation, prescribe.

"(3) States.–In the case of a recipient that is a State, the description required in paragraph (1)–

"(A) shall include only the needs and strategies to meet those needs within the State that affect more than one unit of general local government;

"(B) shall include the needs and strategies to meet those needs of units of local government within the State which are eligible for a distribution under subsection (d)(2)(A) of section 106; and

"(C) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(4) Effect of submission.–A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.".

Subtitle B–Disaster Relief

SEC. 931. SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate and voucher programs under sections 8 (b) and (o) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 932. MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 933. COMMUNITY DEVELOPMENT.

Section 106(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended–

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (4),"; and

(2) by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 104(e) or 111.

"(B) In using any amounts that become available as a result of actions under section 104(e) or 111, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 105, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications and statements under section 104) for assistance under this paragraph.

"(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 104(e) or 111 for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.".

SEC. 934. RURAL HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"DISASTER ASSISTANCE

"Sec. 541. (a) Authority.–

"(1) In general.–Notwithstanding any other provision of this title, in the event of a natural disaster, so declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall allocate, for assistance under this section to the States affected for use in the counties designated as disaster areas and the counties contiguous to such counties, amounts available under this title. Allocations under this section may be made for each of the fiscal years ending during the 3-year period beginning on the declaration of the disaster by the President.

"(2) Amount.–Subject to the availability of amounts pursuant to appropriations Acts, assistance under paragraph (1) shall be made in an amount equal to the product of–

"(A) the sum of the official State estimate of the number of dwelling units in the counties described in paragraph (1) within the eligible service area of the Farmers Home Administration (or otherwise if the Secretary provides for a waiver under subsection (d)) that are destroyed or seriously damaged; and

"(B) 20 percent of the average cost of all dwelling units assisted by the Secretary in the State during the previous 3 years.

"(b) Use.–The assistance made available under this section may be used for the housing purposes authorized under this title, and the Secretary shall issue such regulations as may be necessary to carry out this section to assure the prompt and expeditious use of such funds for the restoration of decent, safe, and sanitary housing within the areas described in subsection (a)(1). In implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(c) Eligibility.–Notwithstanding any other provision of this title, assistance allocated under this section shall be available to units of general local government and their agencies and to local nonprofit organizations, agencies, and corporations for the construction or rehabilitation of housing for agricultural employees and their families.

"(d) Waiver of Rural Area Requirements.–The Secretary may waive the application of the provisions of section 520 with respect to assistance under this section, as the Secretary considers appropriate.

"(e) Rural Housing Insurance Fund.–The Secretary is authorized to advance from the Rural Housing Insurance Fund such sums as may be necessary to meet the requirements of subsection (a)(1), subject to limits previously approved in appropriations Acts.".

Subtitle C–Regulatory Programs

SEC. 941. MORTGAGE SERVICING TRANSFER DISCLOSURE.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 5 the following new section:

"SERVICING OF MORTGAGE LOANS AND ADMINISTRATION OF ESCROW accounts

"Sec. 6. (a) Disclosure to Applicant Relating to Assignment, Sale, or Transfer of Loan Servicing.–

"(1) In general.–Each person who makes a federally related mortgage loan shall disclose to each person who applies for any such loan, at the time of application for the loan–

"(A) whether the servicing of any such loan may be assigned, sold, or transferred to any other person at any time while such loan is outstanding;

"(B) for each of the most recent 3 calendar years completed (at the time of such application), the percentage (rounded to the nearest quartile) of loans made by such person for which the servicing has been assigned, sold, or transferred as of the end of the most recent calendar year completed, except that–

"(i) for any loan application during the 12-month period beginning on the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the information disclosed under this subparagraph may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the information disclosed under this subparagraph may be for the most recent 2 calendar years completed; and

"(ii) this subparagraph may not be construed to require the inclusion, in the percentage disclosed, of any loans the servicing of which has been assigned, sold, or transferred by the person making the loan to a transferee servicer that is an affiliate or subsidiary of such person; and

"(C) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at the time of such application) to assign, sell, or transfer the servicing of such loan to another person.

"(2) Model disclosure statements.–Not later than 90 days after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall develop a model disclosure statement for notification to applicants under paragraph (1) with respect to servicing procedures, transfer practices and requirements, and complaint resolution. The model statement shall provide for the person originating the loan to disclose their capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination. The estimate shall be expressed as one of the following range of possibilities–between 0 and 25 percent, between 26 and 50 percent, between 51 and 75 percent, or between 76 and 100 percent. This paragraph may not be construed to require the inclusion, in the estimate disclosed, of any loans the servicing of which will be assigned, sold, or transferred by the person originating the loan to a transferee servicer that is an affiliate or subsidiary of such person.

"(3) Signature of applicant.–Any disclosure of the information required under paragraph (1) shall not be effective for purposes of this section unless the disclosure is accompanied by a written statement, in such form as the Secretary shall develop before the expiration of the 90-day period beginning on the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, that the applicant has read and understood the disclosure and that is evidenced by the signature of the applicant at the place where such statement appears in the application.

"(b) Notice by Transferor of Loan Servicing at Time of Transfer.–

"(1) Notice requirement.–Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

"(2) Time of notice.–

"(A) In general.–Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) Exception for certain proceedings.–The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by–

"(i) termination of the contract for servicing the loan for cause;
"(ii) commencement of proceedings for bankruptcy of the servicer; or
"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) Exception for notice provided at closing.–The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) Contents of notice.–The notice required under paragraph (1) shall include the following information:

"(A) The effective date of transfer of the servicing described in such paragraph.

"(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

"(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

"(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

"(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or

condition of the security instruments other than terms directly related to the servicing of such loan.

"(c) Notice by Transferee of Loan Servicing at Time of Transfer.–

"(1) Notice requirement.–Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

"(2) Time of notice.–

"(A) In general.–Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) Exception for certain proceedings.–The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by–

"(i) termination of the contract for servicing the loan for cause;
"(ii) commencement of proceedings for bankruptcy of the servicer; or
"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) Exception for notice provided at closing.–The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) Contents of notice.–Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

"(d) Treatment of Loan Payments During Transfer Period.–During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

"(e) Duty of Loan Servicer To Respond to Borrower Inquiries.–

"(1) Notice of receipt of inquiry.–

"(A) In general.–If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 20 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

"(B) Qualified written request.–For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that–

"(i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and
"(ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower.

"(2) Action with respect to inquiry.–Not later than 60 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall–

"(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

"(B) after conducting an investigation, provide the borrower with a written explanation or clarification that includes–

"(i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and
"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

"(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes–

"(i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and
"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

"(3) Protection of credit rating.–During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any consumer reporting agency (as such term is defined under section 603 of the Fair Credit Reporting Act).

"(f) Damages and Costs.–Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

"(1) Individuals.–In the case of any action by an individual, an amount equal to the sum of–

"(A) any actual damages to the borrower as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed $1,000.

"(2) Class actions.–In the case of a class action, an amount equal to the sum of–

"(A) any actual damages to each of the borrowers in the class as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than $1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of–

"(i) $500,000; or
"(ii) 1 percent of the net worth of the servicer.

"(3) Costs.–In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

"(4) Nonliability.–A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

"(g) Administration of Escrow Accounts.–If the terms of any federally related mortgage loan require the borrower to make

payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.

"(h) Preemption of Conflicting State Laws.–Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

"(i) Definitions.–For purposes of this section:

"(1) Effective date of transfer.–The term 'effective date of transfer' means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

"(2) Servicer.–The term 'servicer' means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include–

"(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

"(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by–

"(i) termination of the contract for servicing the loan for cause;
"(ii) commencement of proceedings for bankruptcy of the servicer; or
"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(3) Servicing.–The term 'servicing' means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 10, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

SEC. 942. MORTGAGE ESCROW ACCOUNTS.

(a) In General.–Section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) is amended–

(1) by inserting "(a) In General.–" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) Notification of Shortage in Escrow Account.–If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 6(i)) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

"(c) Escrow Account Statements.–

"(1) Initial statement.–

"(A) In general.–Any servicer that has established an escrow account in connection with a federally related mortgage loan

shall submit to the borrower for which the escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

"(B) Time of submission.–The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

"(C) Initial statement at closing.–Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 4. Not later than the expiration of the 90-day period beginning on the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, the Secretary shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 4 that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

"(2) Annual statement.–

"(A) In general.–Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

"(B) Time of submission.–The statement required under subparagraph (A) shall be submitted to the borrower not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.

"(d) Penalties.–

"(1) In general.–In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of $50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b) may not exceed $100,000.

"(2) Intentional violations.–If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure–

"(A) the penalty imposed under paragraph (1) shall be $100; and

"(B) in the case of any penalty determined under subparagraph (A), the $100,000 limitation under paragraph (1) shall not apply.".

(b) Prohibition of Fees for Escrow Account Statements.–Section 12 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2610) is amended–

(1) by inserting after the first comma the following: "or by a servicer (as the term is defined under section 6(i)),";

(2) by striking "lender" the second place it appears and inserting "lender or servicer";

(3) by striking "6" and inserting "10(c)"; and

(4) by striking the section heading and inserting the following new section heading:

"PROHIBITION OF FEES FOR PREPARATION OF TRUTH-IN-LENDING, UNIFORM SETTLEMENT, AND ESCROW ACCOUNT STATEMENTS".

SEC. 943. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) Purpose.–The purpose of this section is to establish a national commission to develop recommendations for modernizing the National Manufactured Housing Construction and Safety Standards Act of 1974.

(b) Establishment of Commission.–There is established a commission to be known as the National Commission on Manufactured Housing (in this section referred to as the "Commission").

(c) Composition of Commission.–

(1) In general.–The Commission shall consist of the Secretary and 16 members appointed, not later than 60 days after funds are provided as described in subsection (f) or made available from non-Federal sources, as follows:

(A) 8 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate (4 members by each); and

(B) 8 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives (4 members by each).

(2) Appointment criteria.–The 8 members of the Commission appointed under each of subparagraphs (A) and (B) of paragraph (1) shall include–

(A) 2 individuals who are elected public officials at the State or local level;

(B) 2 individuals with knowledge and experience concerning the manufactured housing industry;

(C) 2 individuals chosen from organizations with more than a 2-year history of representing consumer or community interests on housing issues;

(D) 1 individual with knowledge and experience concerning the development and implementation of building codes; and

(E) 1 individual who occupies a manufactured home and is affiliated with an association representing manufactured homeowners.

(3) Chairperson.–The Commission shall elect a chairperson from among members of the Commission.

(4) Quorum.–A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(5) Voting.–Each member of the Commission shall be entitled to 1 vote, and all votes shall be given equal weight.

(6) Vacancies.–Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(7) Prohibition on additional pay.–Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(d) Functions of the Commission.–

(1) In general.–The Commission shall study and investigate the National Manufactured Housing Construction and Safety Standards Act of 1974 and current construction and safety regulatory standards applicable to manufactured housing. In conducting the study, the Commission shall–

(A) consult with the Secretary of Housing and Urban Development and other agencies and housing authorities at the Federal, State, and local level, consumer groups, manufactured housing industry representatives, and other interested parties to assess the effectiveness of the National Manufactured Housing Construction and Safety Standards Act of 1974;

(B) consider deletion of the reference to the permanent chassis in the existing definition of a manufactured home and the effect of such a change on the affordability and durability of manufactured homes;

(C) examine the implications for State regulatory jurisdiction over modular housing, in the event of changes in definitions and standards relating to manufactured housing;

(D) consider the need for additional and revised standards applicable to manufactured housing, including, but not limited to standards in the areas of construction, installation, thermal insulation, energy efficiency, and fire safety;

(E) review the current system of inspections of manufactured housing and enforcement of applicable standards and recommend improvements to the system;

(F) consider the need for independent financing of inspection agencies to insure the autonomy of regulators;

(G) evaluate the impact of the manufactured housing program under the title I of the National Housing Act on the actuarial soundness of Federal mortgage insurance and secondary market programs, and the impact that proposed changes to current law would have on financing of these homes; and

(H) develop an action plan containing specific recommendations for legislative and regulatory revisions to present law (taking into consideration the amendments contained in section 766 of the bill, H.R. 1180, 101st Congress, 2d Session, as passed by the House of Representatives) in order to modernize the National Manufactured Housing Construction and Safety Standards Act of 1974 and a system for reviewing and updating applicable standards on an annual basis.

(2) Final report.–Not later than 9 months after the Commission is established pursuant to subsection (b), the Commission shall submit to the Secretary of Housing and Urban Development and to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(e) Powers of Commission.–

(1) Hearings.–The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) Rules and regulations.–The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(3) Assistance from federal agencies.–

(A) Information.–The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of carrying out this section. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may acquire data or information directly from such departments or agencies to the same extent the Secretary of Housing and Urban Development may acquire such data or information.

(B) Administrative support.–The General Services Administration shall provide to the Commission, on a reimbursable

basis, such administrative support services as the Commission may request.

(C) Personnel details.–Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(4) Mails.–The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) Contracting.–The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts necessary to carry out its duties under this section.

(6) Advisory committee.–The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) Authorization of Appropriations.–Of any amounts made available under section 501 of the Housing and Urban Development Act of 1970, not more than $500,000 shall be available to carry out this section in fiscal year 1991.

(g) Sunset.–The Commission shall terminate upon the expiration of the 9 months following the appointment of all the members under subsection (c).

SEC. 944. ENERGY ASSESSMENT REPORT.

(a) In General.–The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than one year after the date of the enactment of this Act, assessing any activity undertaken by the Secretary to increase energy efficiency in housing. The report shall include an analysis of the August 15, 1990 DOE–HUD program to expand energy efficiency and increase affordability of federally-assisted housing.

(b) Establishment of Energy Efficiency Standard.–In the report submitted under this section, the Secretary of Housing and Urban Development (in consultation with the Secretary of Energy) shall establish, and include a description of, a standard measure by which changes over time in residential energy efficiency may be compared.

SEC. 945. 5-YEAR ENERGY EFFICIENCY PLAN.

(a) Establishment.–The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) Initial Plan.–The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(c) Updates.–The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) Submission to Congress.–The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

SEC. 946. UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.

(a) Uniform Plan.–The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency. The plan shall be promulgated not later than 2 years after the date of the enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**.

(b) Task Force.–To develop the plan, the Secretary shall form a task force to make recommendation on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include individuals representing the Federal Housing Administration mortgage programs of the Department of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association.

SEC. 947. REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.

(a) Authority.–The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties. This section may not be construed to prohibit the Secretary from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section.

(b) Standards.–The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent feasible and to reduce the risk of shake-related property damage to the maximum extent practicable.

(c) Consultation.–In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) Reports.–

(1) Submission and contents.–The Secretary shall submit a report to the Congress, not less than biennially, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties located in seismic risk zones and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such purposes. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) Initial submission.–The first report required under this subsection shall be submitted not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

Subtitle D–Miscellaneous Programs

SEC. 951. HUD RESEARCH AND DEVELOPMENT.

(a) In General.–The second sentence of section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1) is amended to read as follows: "There are authorized to be appropriated to carry out this title $21,200,000 for fiscal year 1991 and $22,100,000 for fiscal year 1992. From any amounts appropriated under this section for fiscal year 1991, the Secretary shall use not more than $500,000 to carry out a demonstration project to test affordable housing technologies, and shall include in the annual report under section 8 of the Department of Housing and Urban Development

Act (for the appropriate year) a statement of the activities under the demonstration program and findings resulting from the program. The statement shall set forth the amount and use of funds expended by the Secretary under the program for the year relating the report and the Secretary shall include such a statement in each such annual report for each year that amounts appropriated under this section are used under the demonstration.".

(b) Report Regarding Research Activities.–Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department of Housing and Urban Development that are being conducted, have concluded, or will conclude during such period, pursuant to section 501 of the Housing and Urban Development Act of 1970, title V of such Act, or any other authority. The report shall include a statement identifying the individual or entity that is conducting each such activity, study, test, and demonstration program.

SEC. 952. NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a) Authorization of Appropriations.–Section 809(h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j–2) is amended by striking the second sentence and inserting the following new sentence: "In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed $512,000 for fiscal year 1991 and $534,000 for fiscal year 1992.".

(b) Advanced Building Technology Program.–Section 809 of the National Housing Act (12 U.S.C. 1701j–2) is amended–

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h) Advanced Building Technology Program.–

"(1) Establishment of advanced building technology council.–There is established within the Institute, the Advanced Building Technology Council (hereafter referred to as the 'Council').

"(2) Purposes.–The Council shall carry out an Advanced Building Technology Program for the purposes of–

"(A) identifying, selecting, and evaluating existing and new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet applicable test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

"(B) to the extent necessary, developing criteria for the use of such technology;

"(C) conducting economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

"(D) in cooperation with the appropriate Federal agencies, advising building designers, installers, subcontractors, contractors and supervisory officials on the appropriate design and use of new building technology incorporated in federally owned or operated buildings;

"(E) in cooperation with the appropriate Federal agencies, monitoring and evaluating the performance of new building technologies for at least 1 year after installation and building occupancy; and

"(F) disseminating resulting data to affected parties through automated information management systems.

"(3) Council membership.–The Council shall be comprised of not less than 6 and not more than 11 members selected by the Secretary of Housing and Urban Development from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to–

"(A) product manufacturers;

"(B) experts in the fields of health, fire hazards, and safety; and

"(C) independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations,

except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.

"(4) Federal participation.–

"(A) In general.–Any agency of the Federal Government involved in any building or construction may participate in the Advanced Building Technology Program with the Council to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within the agency.

"(B) Required assurances.–Upon agreement between a participating Federal agency and the Council, with respect to the selection of the appropriate technology and the schedule of necessary work, the Council shall–

"(i) provide the Federal agency with a 5-year guarantee from the technology manufacturer that–
"(I) all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology;
"(II) all malfunctions will be repaired without delay; and
"(III) the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required,
"(ii) provide the Federal agency and its officials responsible for constructing or renovating buildings utilizing the new technology, as well as the designers, installers, subcontractors, and contractors responsible for the design, construction, or renovation of the buildings utilizing such technology with the technical information necessary to ensure its most appropriate use,
"(iii) in cooperation with the Federal agency, monitor and evaluate the performance of the new technology, and
"(iv) prepare reports to be made available to public agencies at all levels of government, the industry, and the public on the performance of the new technology.

"(5) Report to the institute.–The Council shall submit to the Institute annually a description of its activities under the Advanced Building Technology Program for inclusion in the Institute's annual report to the Congress under subsection (j).".

SEC. 953. FAIR HOUSING INITIATIVES PROGRAM.

(a) Authorization of Appropriations.–The first sentence of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $6,000,000 for fiscal year 1991 and $6,300,000 for fiscal year 1992, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration.".

(b) Extension of Program.–Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking "September 30, 1989" and inserting "September 30, 1992".

SEC. 954. COLLECTION AND MAINTENANCE OF DATA REGARDING PROGRAMS UNDER HUD.

(a) Program Evaluation and Monitoring.–Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended–

(1) in paragraph (1), by striking the periods at the end of the first and last sentences and inserting in each place the

following: “and collecting and maintaining data for such purposes.”;

(2) in paragraph (2)–

(A) in subparagraph (I), by striking “and” at the end;

(B) in subparagraph (J), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(K) titles II, III, and IV and section 811 of the Cranston-Gonzalez **NationalAffordableHousingAct**.”;

(3) in paragraph (3)–

(A) by inserting after the comma the following: “and collecting and maintaining data pursuant to the authority under this subsection,”; and

(B) by striking the period at the end and inserting the following: “and collecting and maintaining data for such purposes.”; and

(4) in paragraph (4)–

(A) in subparagraph (A), by inserting after “subsection” the following: “and collecting and maintaining data for such purposes”; and

(B) in subparagraph (B), by inserting after “paragraph (2)” the following: “and to collect and maintain data for such purposes”.

(b) Annual Report on Characteristics of Families in Assisted Housing.–Section 166 of the Housing and Community Development Act of 1987 (42 U.S.C. 3536 note) is amended by adding at the end the following new subsection:

“(c) Collection and Maintenance of Data.–The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act.”.

SEC. 955. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) Community Development Block Grant.–Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended–

(1) by inserting “(a)” after “Sec. 110.”; and

(2) by adding at the end the following new subsection:

“(b) Subsection (a) shall not apply to any individual that–

“(1) performs services for which the individual volunteered;

“(2)(A) does not receive compensation for such services; or

“(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

“(3) is not otherwise employed at any time in the construction work.”.

(b) Public Housing and Section 8 Assistance.–Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended–

(1) by inserting "(a)" after "Sec. 12."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that–

"(1) performs services for which the individual volunteered;

"(2)(A) does not receive compensation for such services; or

"(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(3) is not otherwise employed at any time in the construction work.".

(c) Elderly and Handicapped Housing.–Section 202(c)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(3)) is amended–

(1) by inserting "(A)" after the paragraph designation;

(2) by striking "; but the Secretary" and all that follows and inserting a period; and

(3) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to any individual that–

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

(d) Applicability.–The amendments made by this section shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act, except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date.

SEC. 956. ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS.

(a) Eligibility of Displaced Homemakers and Single Parents for Federal Assistance for First-Time Homebuyers.–

(1) Displaced homemakers.–No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) Single parents.–No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) Definitions.–For purposes of this section:

(1) Displaced homemaker.–The term "displaced homemaker" means an individual who–

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) First-time homebuyer.–The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) Single parent.–The term "single parent" means an individual who–

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) Applicability.–This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

SEC. 957. MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.

(a) In General.–Notwithstanding any other law and subject to approval in appropriations Acts, the rent charged for any dwelling unit assisted under any housing assistance program administered by the Secretary of Housing and Urban Development, to a family whose monthly adjusted income increases as a result of the employment of a member of the family who was previously unemployed, may not be increased as a result of the increased monthly adjusted income due to such employment by more than 10 percent in each 12-month period during the 36-month period beginning upon such employment.

(b) Definition of Housing Assistance.–For purposes of this section, the term "housing assistance program" means any program of assistance for housing–

(1) for which assistance is provided by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(2) under which rent payments, with respect to all or some of the units in the housing assisted, are limited, restricted, or determined under law or regulation based on the income of the occupying families.

SEC. 958. PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS.

(a) Authority.–The Secretary of Housing and Urban Development shall provide a preference to native Hawaiians for housing assistance programs described in subsection (b) for housing located on Hawaiian home lands.

(b) Assistance Programs.–For purposes of subsection (a), the Federal housing assistance programs described in this subsection are–

(1) the public housing and project-based section 8 assistance programs under the United States Housing Act of 1937;

(2) the program under section 202 of the Housing Act of 1959; and

(3) the programs under the National Housing Act.

(c) Mortgage Insurance.–

(1) In general.–Notwithstanding any other provision or limitation of this Act, including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any Hawaiian home lands property upon which there is located a multi-family residence, for which the Department of Hawaiian Home Lands of the State of Hawaii–

(A) is the mortgagor or co-mortgagor;

(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

(C) offers other security that is acceptable to the Secretary,

subject to appropriate conditions prescribed by the Secretary.

(2) Sale on default.–In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible native Hawaiian.

(d) Definitions.–For purposes of this section:

(1) The term "native Hawaiian" means–

(A) any descendant of not less than one-half; or

(B) in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established under section 209 of the Hawaiian Homes Commission Act, 1920, (42 Stat. 111) or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (P.L. 86–3; 73 Stat. 5),

of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778.

(2) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Home Commission Act, 1920, (42 Stat. 108) or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (P.L. 86–3; 73 Stat.5).

SEC. 959. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) Authorization of Waiver.–For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) Extent of Waiver.–The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) Definition of Housing Program.–For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 960. STUDY OF PENSION FUND FINANCING OF HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of such study.

SEC. 961. ENERGY EFFICIENCY DEMONSTRATION.

(a) Authority.–The Secretary of Housing and Urban Development shall establish a program to demonstrate various methods of improving the energy efficiency of existing housing. For the purpose of this section, the Secretary may, after funds are made available for the purposes of section 304(e), use $2,000,000 of the amounts set aside under section 304(e).

(b) Existing Housing.–The demonstration under this section shall determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed.

(c) Report.–As soon as practicable after September 30, 1991, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

TITLE X–COINAGE DESIGNS

SEC. 1001. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 1002. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 1003. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and

one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 1004. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutitonal concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the Commission of Fine Arts.

SEC. 1005. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

SEC. 1006. AMENDMENTS TO EXPEDITED FUNDS AVAILABILITY ACT.

Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended–

(1) in paragraph (1)(A), by striking "6" and inserting "4";

(2) in paragraph (1)(C), by striking "before September 1, 1990" and inserting "prior to the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**"; and

(3) in paragraph (2)(D), by striking "before September 1, 1990" and inserting "prior to the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez **NationalAffordableHousingAct**".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to authorize a new HOME Investment Partnerships program, a National Homeownership Trust program, and HOPE programs, to amend and extend certain laws relating to housing, community and neighborhood preservation, and related programs, and for other purposes.".

And the House agree to the same.

From the Committee on Banking, Finance and Urban Affairs:

Henry Gonzalez,
Mary Rose Oakar,
Bruce F. Vento,
Charles E. Schumer,
Barney Frank,
Esteban E. Torres,
Joe Kennedy,

Jim McDermott,
Chalmers P. Wylie,
Marge Roukema,
John Hiler,
Tom Ridge,
Steve Bartlett,

From the Committee on Ways and Means, for consideration of sec. 110 of the Senate bill and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Pete Stark,
Andrew Jacobs, Jr.,
Harold Ford,
Ed Jenkins,
Tom Downey,
Bill Archer,
Guy Vander Jagt,
Phil Crane,
Bill Frenzel,
Richard T. Schulze,

From the Committee on Education and Labor, for consideration of secs. 1006 and 1008 and subtitles D through G of title XIII of the Senate bill and sec. 768 of the House amendment and modifications committed to conference:

Augustus F. Hawkins,
William D. Ford,
Austin J. Murphy,
Dale E. Kildee,
Pat Williams,
M.G. Martinez,
Major R. Owens,
Tom Sawyer,
Bill Goodling,
Tom Petri,
Tom Tauke,
Peter Smith,

From the Committee on Energy and Commerce, for consideration of title XIV of the Senate bill and modifications committed to conference:

John D. Dingell,
Ed Markey,
Al Swift,
Cardiss Collins,
Mike Synar,
Billy Tauzin,
Ralph M. Hall,
Dennis E. Eckart,
Norman F. Lent,
Matt Rinaldo,
Carlos J. Moorhead,
Don Ritter,
Tom Bliley,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:

Donald Riegle,
Alan Cranston,
Paul Sarbanes,
Christopher Dodd,
Alan J. Dixon,
Alfonse D'Amato,
John Heinz,
Christopher S. Bond,
Connie Mack,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 566) to authorize a new Housing Opportunities Partnerships program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I–GENERAL PROVISIONS AND POLICIES

National Housing Goal. The Senate bill contained a provision not included in the House amendment that would affirm the national goal that every American family be able to afford a decent home in suitable environment. The conference report contains the Senate provision.

Objective of National Housing Policy. The Senate bill contained a provision not included in the House amendment that would establish the objectives of a national housing policy. The conference report retains the Senate provision with an amendment that the national housing policy shall be to reaffirm the long established national commitment to decent, safe and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions capable of carrying out this policy.

Purposes of Act. The Senate bill contained a provision not included in the House amendment that would establish the purposes of the Act. The conference report contains the Senate provision.

Definitions, in General. The Senate bill contained a provision not included in the House amendment to define the terms "unit of general local government", "state", "jurisdiction", "participating jurisdiction", "nonprofit organization", "community housing development organization", "government-sponsored mortgage finance corporations", "families", "moderate-income families", and "security". The conference report contains the Senate provision with an amendment to add four new definitions: "metropolitan city" has the meaning given the term in Section 102(a)(4) of the Housing and Community Development Act of 1974, "urban county" has the same meaning given the term in Section 102(a)(6) of the Housing and Community Development Act of 1974, "certification" means a written assertion, based on supporting evidence that shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for the purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment, and "to demonstrate to the Secretary" means to submit to the Secretary a written

assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

The House amendment contained a provision not included in the Senate bill that would define the terms "grant administrator", "nonprofit sponsor", "nonprofit partnership", "area and State median income", "surplus cash flow", and, "low- and moderate-income families", "income". The conference report did not retain these definitions.

The House amendment contained a provision not included in the Senate bill that defined "public housing agency" to have the same meaning as in Section 3(b) of the U.S. Housing Act of 1937. The conference report contains the House provision.

The Senate bill contained a provision similar to a provision in the House amendment that defined "Secretary" to mean the Secretary of HUD, unless otherwise specified. The conference agreement includes the Senate provision.

The Senate bill contained a provision that defined "substantial rehabilitation" as rehabilitation of residential property in excess of $25,000. The House amendment contained a similar provision that defined the same term as rehabilitation projects that exceed 30% of the fair market value of the building in cost. The conference report contains the Senate provision.

Definition of Nonprofit Organization. The Senate bill contained a definition of "nonprofit organization" not included in the House Amendment. The conference report contains the Senate provision with an amendment clarifying that such term includes a State or locally chartered, nonprofit organization. This clarification is needed to avoid unintended exclusion of certain nonprofit organizations in Washington State and, perhaps, elsewhere. The conferees are aware that, since January 1, 1987, some profit-motivated developers may have been motivated to create captive nonprofit organizations primarily to benefit from the nonprofit set-aside under the Low-Income Housing Tax Credit. The conferees intend that any preferred treatment given nonprofit organizations under this Act shall be available only to bona fide nonprofit organizations established to advance public purposes consistent with the objectives of this Act. Although the conferees believe that eligible nonprofit organizations should not be prohibited from affiliation with for-profit subsidiaries or entering into joint ventures or other contractual relationships with for-profit organizations, the conferees expect the Secretary in regulation to ensure that favored nonprofit treatment is not given to organizations that are either controlled by for-profit organizations or otherwise affiliated with for-profit organizations in a manner that is not essentially intended to further the nonprofit organization's public purpose. The conferees urge the Secretary to notify Congress immediately if the Secretary determines that additional legislative action is needed to achieve this objective.

Definition of community housing development organization. The Senate bill contained a definition of "community housing development organization" that was not included in the House amendment. The conference report includes the Senate provision. The conferees retained the requirement that a community housing development organization have a history of serving the local community, and intend that newly-formed nonprofit organizations whose origin is in the local community shall be considered to have met this requirement. For example, the requirement could be met by a new organization formed by local churches, service organizations or neighborhood organizations that themselves have a history of serving the local community.

Definitions related to very low-income and low-income families. The Senate bill contained a provision that would define "very low-income families" as those families whose incomes do not exceed 50% or less of area median family income, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish higher or lower income ceilings for an area. The House amendment contained a similar provision, except that higher or lower adjustments would not be made on the basis of fair market rents. The conference report contains the Senate provision.

The Senate and House contained similar definitions of "low-income families" except that the Senate bill defined the term as those families whose incomes do not exceed 80% of median income for the area, whereas the House amendment measured the percentage at 60%. The conference report includes the Senate provision.

The Senate contained a provisions that defined "families" to include single persons in the case of (A) a person who is aged 62 or older, a person with disabilities, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations by the Secretary. The House amendment contains a provision that amends the definition of "family" in Section 3(b)(3) of the U.S. Housing Act of 1937 to include "any other single persons", except that in no event may any single person be provided an assisted housing unit of 2 bedrooms or more. The conference report

includes the Senate provision with an amendment to conform to the changes made regarding single persons under the 1937 Act programs.

Definitions related to first-time homebuyers. The Senate bill and the HOPE amendments contained similar provisions that defined "displaced homemaker" as an individual who may have had an ownership interest in a principle home and whose marriage has resulted in a legal separation, divorce, or death. The conference report contains the provision in the House amendment defining "displaced homemaker" with an amendment to delete a requirement that the definition would only apply to persons with dependents receiving AFDC.

The Senate bill and House amendment contain a provision that defined "first-time homebuyer." The Conference report contains the House provision with an amendment that the homebuyer is an "individual or his or her spouse" who has not owned a home for three years.

The House amendment contained a provision that was not included in the Senate bill that defined "single parent." The conference report contains the House provision.

Comprehensive Housing Affordability Strategies. The Senate bill contains a provision not included in the House amendment that would require the Secretary to provide assistance only to jurisdictions that submit an annual comprehensive housing affordability strategy. The Senate provision directs the Secretary to establish deadlines and procedures for submitting and approving housing strategies in order to facilitate orderly program management by jurisdictions and provide for timely investment of funds in affordable housing. The conference agreement contains the Senate provision with an amendment requiring consideration of (1) families who are participating in an organized program to achieve economic independence and self-sufficiency, as provided in the House amendment, and (2) consideration of housing needs of low income families "expected to reside" in the jurisdiction. This provision includes a requirement for certifying that an antidisplacement plan is in effect.

The conferees are concerned that the Department has too often in the past administered statutory requirements for housing assistance plans and other plans in a way that made such plans burdensome exercises that did not further efficient management or effective achievement of key goals. The conferees therefore emphasize that it is their intent that, when establishing regulations for the comprehensive housing affordability strategies, the Secretary shall ensure, to the maximum extent feasible, that the strategies will serve not only as effective monitoring tools for the Department, but also as concise, useful, action-oriented management tools for States and local governments.

The conference report would require each jurisdiction that directly receives assistance from the Department of Housing and Urban Development to prepare a single, action-oriented strategy that looks ahead for 5-years and serves as a working guide for each jurisdiction's use of federal and other housing resources. The strategy would replace other plans now required by law, such as the Housing Assistance Plan (HAP) required under CDBG and the Comprehensive Homeless Assistance Act (CHAP) required under the McKinney Homeless Assistance Act. The state and local strategies are designed to incorporate the useful elements of the HAPs and CHAPs. McKinney Act funding would be available only to jurisdictions that have an approved housing strategy. Reference to CHAP would be eliminated. Section 104(c) of the Housing and Community Development Act of 1974 would be amended to strike the requirement for HAPs and make CDBG funding available only to jurisdictions that have an approved housing strategy. An approved strategy would be a prerequisite only for HUD assistance that goes directly to a state or unit of general local government; it does not affect funding that is allocated to public housing authorities.

Certification. The Senate bill contains a provision that was not included in the House amendment that would allow the Secretary to require that any application for assistance must contain a certification that the proposed activities are consistent with the housing strategy of the jurisdiction. The conference report contains the Senate provision.

Citizen Participation. The Senate bill contained a provision that was not included in the House amendment to insure that citizens and interested parties within the jurisdiction have a reasonable opportunity to comment on the housing strategy. The conference report contains the Senate provision.

Compliance. The Senate bill contained a provision that was not included in the House amendment that would require

participating jurisdictions to submit reports describing the progress the jurisdiction has made in carrying out its housing strategy; require the Secretary to insure compliance with this Act; and establish that information included in the housing strategies regarding local public policies that have an impact on housing affordability are not reviewable by any court. The conference report contains the Senate provision.

Energy Efficiency Standards. The Senate bill contained a provision that was included in the House amendment regarding the establishment of energy efficiency standards. The conference agreement amends this provision to clarify that HUD should promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily insured residential housing and that such standards must be cost efficient. The standards would be developed through a task force that includes representatives of homebuilders, housing agencies, energy agencies and building code organizations, energy efficiency organizations, utility organizations and low-income housing organizations. The promulgated standards would need to meet or exceed the provisions of the most recent Model Energy Code of the Council of American Building Officials.

Tax and Housing Coordinating Council. The Senate bill included a provision not in the House amendment to create a Tax and Housing Coordinating Council to advise the President about the consistency of Federal housing and tax policies. This provision was not included in the conference agreement.

Capacity Study. The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that the Department has adequate staff and resource capacity to carry out its responsibilities and the mission of the Department. In order to respond effectively to congressional concerns on this subject, the conference committee urges the Department to include in its study an analysis of staff levels and skills by program area including program monitoring, as well as training programs and travel. In addition, the committee would request that the report also analyze the capacity of the information and financial management systems at the Department by program area and include a long-range plan with time-frames and budgetary requirements for meeting staffing and resource capacity needs. The conference report contains the Senate provision.

Protection of State and Local Authority. The Senate bill contained a provision that was not included in the House amendment that prohibits the Secretary from establishing criteria that interfere with the authority of States and units of local government to exercise their duly established policy making authority. The conference report contains the Senate provision with a clarifying amendment. The conferees intend that federal housing assistance be used to give State and local governments more effective tools for achieving housing affordability within their jurisdictions. It is not the conferees' intent to give HUD new authority to intervene in State and local decision-making. For that reason the conference agreement reaffirms and makes clearer the provisions in title I of the Senate bill relating to this issue.

Budget compliance. The House amendment contained a provision which would establish Congressional Findings as follows–(1) the House of Representatives approved a FY 1991 concurrent budget resolution; (2) the House Report provides $3.3 billion above the CBO Baseline in FY 1991 for new housing programs; (3) CBO programmatic baseline for aggregate budget authority in FY 1991 is $23,869,015,000; (4) the appropriate aggregate budget authority for housing programs under this Act is $27,169,015,000. The conference report does not contain the House provision.

The Senate bill contained a provision that would require that each authorization of appropriations contained in this Act (other than the Indian Housing, Subtitle D of Title VII) shall be reduced by an amount that bears the same ratio to (1) $54,530,000 for a FY 1991 authorization, (2) $56,711,000 for a FY 1991 authorization, and (3) $58,980,000 for a FY 1993 authorization, as the amount authorized by such provisions bears to the total amount authorized by this Act. The Conference report does not contain the Senate provision.

Pro rata reduction. The House amendment contained a provision that would reduce each program in the Act on a pro rata basis by the amount necessary to provide an aggregate budget authority level of $27,169,015,000 and would define the terms "budget authority" and "concurrent resolution on the budget" as having the same meanings in Section 3 of the 1974 Budget Act. The Senate bill contained a provision that would require a reduction of all authorizations of appropriations by the same ratio that $54,530,000 bears to the FY 1991 authorization for FY91, by the ratio that $56,711,000 bears to the FY 1992 authorization for FY92, and by the ratio that $58,980,000 bears to the FY 1993 authorization for FY93. The conference report does not contain the House or the Senate provision.

The Senate bill contained a provision not included in the House amendment which would guarantee each state a minimum share (0.5%) of the aggregate amount of funds available in each fiscal year for the following programs: Section 202 housing for elderly persons and persons with disabilities, public housing modernization (CIAP), public housing operating subsidies, and Indian housing development. The conference report contains the Senate provision amended to make the minimum state share provisions permissive and to apply only to fair share programs.

Deficit reduction recommendations. The Senate bill contained a provision not included in the House amendment that would delineate the following Congressional findings–(1) elimination of government waste should be the major component of deficit reduction; (2) revenues for FY 1990 will grow by $82 billion as a result of economic growth; (3) Comptroller General has stated that there is $100–200 billion in annual Government waste, fraud and mismanagement; (4) there is more than $125 billion in outstanding delinquent debt owed to the Government by individuals; (5) OMB has identified more than 100 "high risk" programs that are vulnerable to fraud, waste, and abuse; (6) federal government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers; (7) reducing waste would free the inefficient use of resources by the government and release them into the private sector. The Senate bill also contained a provision that would establish a Sense of the Senate that the President and the budget summit members should consider the most feasible of the deficit reduction recommendations contained in the June 1990 Report of Citizens against Government Waste, as well as those in the public record of the Congressional Budget Office, General Accounting Office, Office of Management and Budget, and other agencies before considering new or increased taxes. The conference report does not contain the Senate provision.

TITLE II–INVESTMENT IN AFFORDABLE HOUSING

HOME Investment Partnerships. The Senate bill contained a provision not included in the House amendment to establish a new Housing Opportunity Partnerships (HOP) program to expand the supply of affordable housing and make housing more affordable for low-income families. The conference report contains the Senate provision under a HOME Investment Partnerships program reflecting amendments noted below. The provision would allocate funds, partly by formula and partly by incentive allocation, among eligible State and local governments to strengthen public-private partnerships able to provide more affordable housing. HOME funds would have to be matched by State and local resources and used to leverage private investment. Participating jurisdictions would be able to use HOME funds to carry out multiyear housing strategies with a variety of eligible uses, including rehabilitation of substandard housing, new construction, substantial rehabilitation, acquisition and tenant-based rental assistance. Jurisdictions would be able to provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies and other forms of investment that the Secretary approves. The HOME program would have been administered through the Office of the Assistant Secretary for Housing/FHA Commissioner in a way that enables participating jurisdictions to receive the various forms of assistance they need to carry out activities under the HOP program (including capital investment, Section 8 rental assistance, mortgage insurance and other forms of federal housing assistance) to the maximum extent practicable on a "one-stop" basis. HUD would be responsible for developing and making available a selection of model programs designed to provide guidelines to enable participating jurisdictions to use HOME funds most effectively under a variety of local market conditions.

Short Title. The Senate bill authorized a short title not contained in the House amendment. The conference report changes the short title from "the Housing Opportunities Partnerships Act" to the "HOME Investment Partnerships Act."

Findings. The House amendment contained provisions not included in the Senate bill that found that: the nation has not made adequate progress toward the goal of national housing policy; the supply of affordable housing is diminishing; the Tax Reform Act of 1986 removed tax incentives for the production of affordable rental housing; the living conditions for an increasing number of Americans has deteriorated as a result of reduction in Federal assistance; many Americans face the possibility of homelessness unless the private and public sectors work together to develop and rehabilitate the nation's housing stock; there is a need to strengthen nationwide a cost-effective community-based housing partnership; direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives; the nation's housing system provides a strong base on which national housing policy should build; an increasing number of states and local governments have been successful in producing cost-effective housing by working in partnership with the private sector; nonprofit organizations have played an increasingly important role in the production and rehabilitation of affordable housing; local communities need additional resources to mobilize the private

sector; and the efforts to provide more affordable housing require tenants and homeowners to be fiscally responsible and able managers. The conference report includes a section of findings based on the House provisions.

Purposes. The conference report contains a provision that was contained in the Senate bill and amended to reflect provisions in the House bill that among purposes of this section are: to increase the supply of affordable rental housing; to mobilize and strengthen the abilities of States and local governments to design and implement strategies for achieving an adequate supply of affordable housing; to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance needed to expand the supply of affordable housing; to make housing more affordable through tenant-based rental assistance; to expand the capacity of nonprofit organizations to develop and manage affordable housing; to ensure that housing produced with Federal assistance is affordable to low-income persons for the property's remaining useful life, is appropriate to the neighborhood surroundings, and is mixed-income housing wherever appropriate. The conference report includes the Senate provision with the amendment described above.

HOME Advisory Board. The Senate bill contained a provision not included in the House amendment to establish an advisory Board. The Conference report does not include the Senate provision.

Authorization. The Senate bill contained a provision not included in the House amendment to authorize three years of funding for a new formula-based Housing Opportunity Partnerships program. The House amendment included provisions not in the Senate bill to provide 1-year authorizations for two new programs: the Community Housing Partnership and the Rental Housing Production program. The Conference report establishes one formula-based HOME Investment Partnerships authorization that achieves the purposes of the Community Housing Partnership, and rental production programs and authorizes appropriations of $1,000,000,000 in fiscal year 1991 and $2,086,000,000 in fiscal year 1992.

Eligible Uses of Investment. The Senate bill contained a provision not in the House amendment that the conference report refined to make it clear that the Secretary may not restrict a jurisdiction's choice among eligible housing activities except as specifically provided for in the statute. The conferees intend that the HOME Investment Partnerships be directed primarily to encourage States and local governments–in collaboration with private organizations–to take action and adopt policies to expand the supply of affordable housing. Tenant-based rental assistance would be a permitted use where a jurisdiction can certify that it is an essential element of the jurisdiction's strategy for expanding the supply, affordability and availability of decent housing, and specifies the local market conditions that lead to the choice of this option. Advances on interest-bearing loans would be added as an eligible use of investment.

The conferees expect that rehabilitation of substandard housing will be the predominant use of HOME funds. However, the conferees believe that new construction will be an appropriate use of the funds under certain circumstances. The conference report requires the Secretary to establish criteria designating not less than 30 percent of the jurisdictions receiving a HOME formula allocation as having a housing supply sufficiently inadequate to permit new construction without further approval by the Secretary. The Secretary shall publish the criteria and a list of the jurisdictions that the Secretary determines to have met those criteria. The Secretary shall provide a fair opportunity for other jurisdictions to present evidence, including evidence not considered by the Secretary when preparing the list, showing that the jurisdiction meets the criteria. New construction would be permitted elsewhere only if a jurisdiction certifies that the proposed new construction meets criteria specified in the Senate bill and contained in the conference report. The conference report expands the neighborhood revitalization exception contained in the Senate bill, which permits new construction equal to more than 20 percent of the units assisted if the housing is to be located in an area with an inadequate supply of existing housing that can economically be rehabilitated to meet identified housing needs or the new construction is required to accomplish the neighborhood revitalization program. The conference report contains the Senate provision as amended.

Rent affordability. The conferees reaffirm the policy that federal housing assistance should be directed, wherever feasible, to holding the contribution toward rent for low-income beneficiaries to within 30 percent of the family's adjusted income. The conference agreement would make all housing assisted with HOME funds available to holders of vouchers or rental certificates, who would be making a rent contribution that does not exceed 30 percent of the family's adjusted income. The conferees recognize that responsibility for providing subsidies to achieve that affordability objective cannot be placed on a project sponsor. The conferees intend that other forms of housing assistance, particularly mortgage insurance and rental assistance, will have to be provided in conjunction with HOME investment so that housing can be affordable to very low-income families. The conferees therefore expect that, to carry out the purposes of title II, the Secretary will implement

procedures to make rental assistance–both tenant-based and project-based rental assistance under Section 8–available to achieve the important affordability objectives related to housing assisted with HOME funds. To the extent practicable and consistent with the availability of appropriations and other priority uses for available rental assistance, procedures for distributing rental assistance to the State and local level should support efforts of participating jurisdictions to carry out their comprehensive housing affordability strategies most effectively.

Participation by States and Local Governments. The Senate bill contained a provision not included in the House amendment to permit certain smaller local jurisdictions, if they had received an insufficient formula allocation, to become participating jurisdictions by forming consortia with adjacent jurisdictions in similar circumstances. The provision was amended to make it easier for smaller jurisdictions to participate by permitting them, before the formula allocation is made, to form a consortium that could qualify for an allocation large enough to permit the consortium to become a participating jurisdiction. Such a consortium of geographically contiguous units of local government would be deemed a general local government for purposes of this subtitle if the Secretary determines that the consortium has sufficient authority, capacity, and written commitment by the State to direct its activities towards alleviating its housing problems.

The conference agreement would permit a local jurisdiction including consortia to participate if its allocation is not less than $750,000–compared to a threshold of $2,000,000 in the Senate bill–or if it supplements its allocation to make up any shortfall below $750,000. A jurisdiction could become eligible if the Secretary found that the jurisdiction is a central city, rather than the city with the largest population in a metropolitan area, as in the Senate bill. The conference report contains the Senate provision as amended.

Allocation of Resources. The Senate bill contained a provision not included in the House amendment that was amended by initially distributing all of the HOME funds by formula, compared to 80 percent by formula, 20 percent by incentive allocation, as in the Senate bill. The conference report contains the Senate provision as amended.

Rental Production. The House amendment contained a provision not included in the Senate bill that established a rental housing production program to make repayable advances from a new revolving loan established in the Treasury to cover up to 50 percent of the cost of construction for eligible rental housing. The conference report does not contain the House provision, but includes an amendment to the Senate bill to include Rental Housing Production advances as a specified model program under the HOME Investment Partnerships Act.

The Rental Production Program contained in the House amendment would have authorized HUD to make repayable advances to eligible project sponsors to assist the sponsors in constructing, acquiring, or substantial rehabilitating affordable rental housing, including limited equity cooperatives and mutual housing. An advance could not have exceeded 50% of the total costs of the projects. Interest payments on such advances would have started one year after completion of the project. The interest rate could not have been more than 3%. Interest would have been payable only from cash flow in excess of that required to provide a minimum return on equity as determined by the Secretary. Unpaid interest would have accrued to the principal owed. If the cash flow were greater than the interest due, HUD would have received 50% of the excess.

The House amendment contained a provision that would have required the principal and any accrued interest payable at 25 years after the completion of the construction, acquisition or rehabilitation. If, at the end of the 25-year period, the developer agreed to maintain the property according to the low-income restrictions of this program, the repayment would have been deferred, no further interest would have accrued, and the developer would have been forgiven the balance due at a rate of 6.7% per year.

The House amendment contained a provision that would have designated nonprofits, for-profits and public housing agencies as eligible sponsors. The project sponsor would have had to commence construction, acquisition or rehabilitation not later than 24 months after notice of project selection, unless the Secretary for good cause extended the date.

The House amendment contained a provision that would have required low income occupancy requirements such that during the initial 25 years of the advance, at least 20% of the units would have been required to be occupied by very low income families (those whose income does not exceed 50% of area median income) or at least 40% by low income families (those whose income does not exceed 60% of area median income). The allowable rent for very low income families could not have exceeded 30% of adjusted income of families whose income equals 40% of median income. Allowable rent for the low

income families would have been 30% of adjusted income of families whose income equaled 50% of median income. The cap for lower income families (80% of median income) would have been 30% of adjusted income for families whose income equals 60% of median income. If a family that occupies a unit reserved for very low-income or low-income families ceases to qualify as such, that family could have continued to occupy the unit so long as the family is a low or lower income family. Advances would have been limited to amounts needed to meet occupancy and rent requirements.

The House amendment contained a provision that would have allocated assistance, other than assistance under this title, to all units in the project in determining the amount of the advance under this title.

The House amendment contained a provision that would have required the Secretary to establish selection criteria for applicants designed to select projects in areas demonstrating the greatest need for affordable housing. Such criteria would have included: (1) the extent of the shortage of rental housing for lower income families in an area; (2) the extent to which large families with children will be served by the specific project; the extent to which the project provides congregate facilities and has available supportive services; (3) the extent of very low and low income occupancy in excess of program requirements; (4) the extent of the project sponsor's commitment of equity to the project; (5) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project; (6) the extent to which the market rents do not exceed Section 8 certificate limitations (rents equal to 30% of income); (7) the extent of non-federal public assistance to the project; and (8) any other factors determined by the Secretary to be appropriate.

The House amendment contained a provision that would have further delineated selection criteria by prohibiting the Secretary from selecting projects based on the ownership of the project sponsor.

The Secretary would have been able to establish selection criteria to limit the areas in which projects eligible for advances may be located. Such criteria would have had to be objective and timely and include the level and duration of housing vacancies, the vacancy and turnover in units with rents below the fair market rents, and the extent of housing overcrowding. Projects serving special needs, such as housing for large families with children, supportive housing for persons with disabilities and congregate housing for the elderly and handicapped would be eligible for advances without regard to the above limitation.

Rental housing production. The House amendment contained a provision establishing the Rental Housing Production Fund as a revolving fund in Treasury. The Fund would consist of appropriated funds, funds received from repayments of advances under this title and amounts received from the investment of excess funds. No project sponsor could discriminate against a tenant because of such tenant's receipt of housing assistance. The Secretary would be required to issue necessary regulations. This provision would authorize $300 million for fiscal year 1991 and would provide a conforming amendment that would allow CDBG funds to be used for activities under this title.

The conference report amends the Senate bill to provide that, of the funds appropriated for the HOME Investment Partnerships, 10 percent in fiscal year 1991 and 15 percent in fiscal year 1992 would be designated for use only to produce affordable rental housing through new construction or substantial rehabilitation. The conference agreement would distribute those funds by special formula among jurisdictions that, according to the Secretary, have a housing supply that is sufficiently inadequate to permit new construction at the jurisdiction's discretion, without further approval by the Secretary. The funds would be reserved for new construction or substantial rehabilitation for a maximum period of 24 months, after which uncommitted amounts could be used for other eligible purposes during an additional 12 month period.

The conferees note that the set-aside under section 217(b)(1)(A) does not place a cap on funds that may be used for new construction. Other funds may be used for this purpose so long as such use is in compliance with provisions of the title. The set-aside amounts would be initially allocated by formula among jurisdictions that the Secretary determines has an inadequate supply of housing. The allocation formula would reflect each jurisdiction's share of the total need for rental housing production. The Secretary would establish a basic allocation formula by objective measures of tightness in the housing market, inadequate housing, the number of low-income families in housing likely to need rehabilitation, the costs of producing housing, poverty, and capacity of the jurisdiction to carry out housing activities without federal assistance.

The conference agreement amends the basic formula for HOME funding allocations to provide greater recognition of the need for affordable housing in jurisdictions that are experiencing a variety of housing problems. The changes in the allocation

formula reflect the intent of the conferees that assistance under this subtitle shall be available to each jurisdiction with a demonstrated need and commitment to expanding the supply of affordable housing.

The conference agreement adds two new formula factors to those contained in the Senate bill: the number of low-income families in housing likely to be in need of rehabilitation, and the fiscal incapacity of a jurisdiction to carry out activities under this subtitle without federal assistance. In determining the fiscal incapacity of each jurisdiction, the Secretary shall assess the relative tax burden of each jurisdiction and its inability or declining ability to increase local taxes to develop affordable housing.

In addition, the conference agreement instructs the Secretary to consider the need for appropriate geographic distribution of assistance under this subtitle.

The conferees intend that the allocation of funds under the new construction set-aside shall not reduce the funds received by any jurisdiction below the level the jurisdiction would have received if the basic HOME formula were used alone. The conference agreement therefore provides that, if a jurisdiction receives an allocation under the rental housing production formula, the Secretary shall reduce the jurisdiction's allocation under the basic formula by the amount allocated under the rental housing production formula. The conference agreement also provides that a jurisdiction's rental housing production formula shall not exceed the amount it would receive if the basic formula were used alone. This provision is intended to ensure that the Rental Housing Production formula provides fenced in resources for new construction in jurisdictions that most need it, but does so without redistributing funds geographically from regions that have other forms of housing needs.

The conferees intend that the Secretary shall promptly begin the development of formulas for distributing HOME funds so that the appropriate committees of Congress can be notified of the Secretary's recommended formulas within 120 days after enactment of the Act. The conferees direct the Secretary to develop details of the formulas in periodic and open consultation with the housing subcommittees of the House and Senate as well as with representatives of State and local government. The conference report contains the Senate provision as amended.

State Allocation. The Senate bill contained a provision not included in the House amendment that was amended to require the Secretary, when applying the distribution formula to States, to give 20 percent weight to measures of the State's share of the national housing need and 80 percent weight to measures of the share of need reflected among nonparticipating jurisdictions within the State. This provision is needed to provide a fair geographic distribution of HOME funds across the nation. The conference report contains the Senate provision.

Minimum Local Allocation. The Senate bill contained a provision not included in the House amendment that was amended by reducing the minimum formula allocation to units of local government to $500,000, compared to $1,500,000 in the Senate bill. Minimum funding would be $750,000, compared to $2,000,000 in the Senate bill. The conferees believe that these changes will allow participation by a larger number of communities to participate, while ensuring that each participating jurisdiction will have sufficient funds to carry out an effective housing strategy. The conference report contains the Senate provision as amended.

Maximum Allocations. The Senate bill contained a provision not included in the House amendment that placed specific caps on the portion of HOME funding that could go to any one State or locality. The conference agreement does not contain this provision but the conferees expect the Secretary to develop a formula that avoids having an inappropriately large share of the funds being allocated to only a few jurisdictions.

Incentive Allocation. The Senate bill contained a provision not included in the House amendment that reserved 20 percent of the HOME funds for distribution by incentive allocation rather than by formula. The conference report does not contain the Senate provision. However, the conference agreement retains the criteria for incentive allocations for use when reallocating certain funds in accordance with various provisions of the title.

Review of Allocation Percentage. The Senate bill contained a provision not included in the House amendment that would have required an annual review of the allocation formulas. The conference report does not contain this provision because the conferees believe it is appropriate to provide more effective collaboration in the development of allocation formulas and then to retain those formulas over time to give States and local governments enough predictability to permit sound planning and

management of housing strategies.

Tenant Selection. The Senate bill contained a provision not included in the House amendment that requires rental projects assisted with HOME funds to establish orderly tenant selection procedures. The conference report contains the Senate provision with amendment to add that tenant selection policies and criteria shall give reasonable consideration to the housing needs of families that have preference under public housing procedures.

HOME Investment Trust Funds. The Senate bill contained a provision not included in the House amendment that was amended by changing the name from "housing investment trust funds" to "HOME Investment Trust Funds." The conference report contains the Senate provision as amended.

Monitoring of Compliance. The Senate bill contained a provision not included in the House amendment that is amended by adding a technical refinement allowing the Secretary to provide streamlined procedures in the case of small-scale or scattered site housing. The conference report contains the Senate provision as amended.

Community Housing Partnership. The Senate bill contained a provision not included in the House amendment that would have required each jurisdiction receiving a formula allocation of housing assistance to set aside 10 percent of its allocation for nonprofit housing development. The House amendment contained a provision not included in the Senate bill that would have created a separate program, the Community Housing Partnership program, which would authorize the Secretary to allocate funds by formula to States, urban counties, cities, and nonprofit organizations. The funds could have been used for housing education and organizational support grants for capacity building, technical assistance and community housing. Community Housing Partnership grants could have been provided for maintaining, acquiring, constructing, and rehabilitating affordable housing. The conference report does not contain the House provision.

The conference agreement amends the Senate bill to include a new subtitle, Community Housing Partnership, that provides a set-aside of 15 percent of HOME Investment Partnership funds for investment in housing to be developed, sponsored or owned by nonprofit community housing development organizations. Amounts reserved could be used for activities that are eligible generally under the HOME program–including maintaining, acquiring, constructing, and rehabilitating affordable housing–as well as for project-specific technical assistance and site control loans and project-specific seed money loans.

The conference report permits not more than 10 percent of the amounts set aside for the Community Housing Partnership to be used for project specific technical assistance and seed money loans. Repayment of the loans would be made into the participating jurisdiction's HOME Investment Trust Fund.

The conference report contains a provision authorizing the Secretary to provide housing education and organizational support grants to facilitate the education of low and moderate income homeowners and tenants and to promote the ability of community housing development organizations to maintain, rehabilitate and construct housing for low and moderate income families. Eligible activities include organizational support to cover operational expenses and technical assistance, housing education and program-wide support for nonprofit community housing development organizations.

The conference report provides that assistance to community housing development organizations shall be provided through contract with private, nonprofit intermediary organizations that have demonstrated the capacity to provide a range of technical assistance to nonprofit organizations in more than one community. The conferees believe that the Community Housing Partnership provides an opportunity for nonprofit community housing development organizations to provide more affordable housing most efficiently.

The House amendment contained a provision not in the Senate bill requiring that recipients of Community Housing Partnership funds submit and comply with a plan for community and resident participation in development and management decisions. The conference report contains the House provision with an amendment that requires a community housing development organization to provide and follow a program of tenant participation in management decisions.

The House amendment contained a provision that limited the federal assistance received by any nonprofit sponsor to not more than 50 percent of the total operating costs of the nonprofit sponsor in the fiscal year. The conference report contains the House provision.

Other Support for State and Local Strategies. The House amendment contained a provision not included in the Senate bill that establishes the "REACH" asset recycling information dissemination program. The House provision would have authorized the Secretary to make grants to States on behalf of the State housing finance agencies (HFA) to capitalize revolving loan funds to finance housing for low and moderate income renters and first time homebuyers.

The House provision would have defined eligible properties to include unoccupied single or multifamily units which are owned or controlled by one of the following federal agencies: (A) the Department of Housing and Urban Development; (B) the Department of Veterans Affairs; (C) the Federal Deposit Insurance Corporation; (D) the Office of Thrift Supervision; (E) the Farmers Home Administration; and (F) the Resolution Trust Corporation.

The House provision would have established appraisal guidelines, requirements on listing of eligible properties, reporting requirements, and definitions for this section and would have authorized appropriation of such sums as are necessary for fiscal year 1991 to be available until expended.

The Conference Committee recognizes the importance of developing the capacity of housing partnerships–public agencies, for-and-non-profit corporations, lenders, developers and others–to identify and meet the needs for increased supply of decent, affordable housing. Irrespective of whether contracted providers are public agencies, associations or corporations, or offer their services for profit or as non-profits, the Conference Committee is concerned that HUD exercise enormous care to select providers based upon their quality, professional skills, expertise, demonstrated experience and cost-effective delivery of services.

In addition, HUD should develop procedures to review on a regular basis the service provided by all technical assistance service providers to ensure the quality of work and cost effectiveness.

The conference report includes REACH among the other support for State and local housing strategies provided through the HOME Investment Partnerships. The Secretary is required to provide jurisdictions upon request with a list of eligible properties owned by the federal government that are available for purchase, development, or rehabilitation.

Specified Model Programs

The House amendment contained three provisions not included in the Senate bill that would produce affordable rental housing, provide Home Repair Services Grants for Older and Disabled Homeowners, and establish a Low-income Housing Conservation and Efficiency Grant Program. The conference agreement includes these initiatives among the model programs that the Secretary shall make available as guidelines for participating jurisdictions using HOME funds.

Low income housing conservation and efficiency grant program. The House amendment contained a provision not included in the Senate bill authorizing the Secretary to make grants to States for distribution to local governments and community action agencies to carry out a low-income housing conservation and efficiency program to provide safe, energy-efficient affordable housing for low-income persons. The conference report includes a model program under the HOME Investment Partnerships to achieve the purposes of the House provision.

The model program would provide guidelines for a participating jurisdiction to identify housing that is (1) owned and occupied by persons or families who have received, are currently receiving, or are scheduled to receive assistance under the ECPA weatherization programs (or a comparable Federal or State program); (2) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and (3) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments. The guidelines would provide for repairs to prolong the habitability of the identified units, including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low income persons. The guidelines would indicate reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under HOME.

Rehabilitation of In-Rem Properties. The House amendment contained a provision not included in the Senate bill authorizing an additional $30 million for fiscal year 1991 for Community Development Block Grant funds to be used specifically for

converting and rehabilitating properties that states and local governments have acquired as a result of tax foreclosure proceedings (in rem properties). The conference report includes a model program under the HOME Investment Partnerships to achieve the purposes of the House provision.

The model program would provide guidelines for a participating jurisdiction to convert in rem properties to provide affordable permanent housing for the homeless by leasing the properties to nonprofit organizations and permitting the organizations to rehabilitate the properties. The model program would target vacant properties for rehabilitation by nonprofit organizations.

Home Repair Service Grants. The House amendment contained a provision not included in the Senate bill to establish a Home Repair Service Grant program for older and disabled individuals and to authorize the Secretary to make grants for repair services for older and disabled homeowners to eligible organizations to the extent of appropriated funds. The conference report includes a model program under the HOME Investment Partnerships that would achieve the purposes of the House provision.

The model program would provide guidelines for a participating jurisdiction to repair the primary residences of older and disabled homeowners who qualify as low-income families.

Second Mortgage Assistance for First-time Homebuyers. The House amendment contained a provision not included in the Senate bill that would have authorized the Secretary to provide second mortgages to first-time homebuyers. The conference report includes a model program under the HOME Investment Partnerships that would achieve the purposes of the House provision.

The model program would provide guidelines to participating jurisdictions could provide loans secured by second mortgages with deferred payment of interest and principal to first-time homebuyers. The guidelines would provide for homeownership counselling to help homebuyers identify the most suitable properties, understand mortgage transactions, eliminate credit problems and follow sound financial management. The guidelines would require that the assistance be provided only to eligible first-time homebuyers with respect to their principal residence and would limit assistance to 30% of the acquisition price of the home. Repayment could be deferred for not more than 5 years. Second mortgage terms would have to include an interest rate of at least 4% and require repayment within 15 years.

Protection of State and Local Authority. The conferees adopted a provision that reaffirms an amendment in the Senate bill that was not included in the House amendment that prohibits the Secretary from establishing criteria that interfere with the public policies of states and units of local government. The conferees intend that the federal housing assistance be used to give State and local governments more effective tools for achieving housing affordability within their jurisdictions. It is not the conferees' intent to give HUD new authority to intervene in State and local decision-making. For that reason the conference agreement reaffirms and makes clearer the provisions in title I of the Senate bill relating to this issue. The conference report contains the Senate provision.

Anti-displacement. The House amendment contained a provision not in the Senate bill that would require all recipients of Community Housing Partnership funds to certify that they are in compliance with a residential anti-displacement and relocation assistance plan required of recipients of Community Development Block Grants. The conference agreement includes this among the requirements of participating jurisdictions under the HOME program. The conferees emphasize that scarce federal dollars should be used to expand the availability of affordable housing, not to reduce the supply. The conference report contains the House amendment as amended.

Equal Opportunity. The Senate bill contained a provision not included in the House amendment that would direct participating jurisdictions to prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction. The purpose of such an outreach program is to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts entered into in order for the participating jurisdiction to provide affordable housing authorized under this Act or any federal housing law.

In addition, the Act requires that the Secretary submit to Congress a report on the actions taken by each participating jurisdiction to undertake a minority outreach program and any recommendations for administrative and legislative actions

necessary to carry out the purposes of this subsection.

The Committee urges the Secretary, in addition to overseeing the minority outreach efforts of participating jurisdictions, to reaffirm the Department's commitment to include minorities and women in its contracting activities as prescribed under existing federal law.

The conferees recognized that minorities and women have historically been disadvantaged and denied access to federal, state and local contracting opportunities in the construction, real estate, financial and legal service industries. The conferees also recognized that this historical practice, in conjunction with other impediments to economic and social opportunity, has contributed to the disproportionate representation of minorities and women in poverty. The conferees urge the Secretary to work towards eradicating any historical discriminatory contracting practices in the construction, real estate, financial and legal services industries and to affirmatively foster participation by minorities and women in such industries. The conferees recognize that only through meaningful economic opportunity and participation can genuine empowerment occur. The conference report contains the Senate provision.

Nehemiah program. The House amendment contained a provision not included in the Senate bill that would authorize $100,000,000 in fiscal year 1991 for Nehemiah housing opportunity grants. The Senate bill contained a provision that would extend the Nehemiah program until September 30, 1991, but authorized no funds and prohibited any new grants or loans from being made under the Nehemiah program after October 1, 1990. The conference report contains the Senate provision to terminate the Nehemiah program, permitting no new projects to be approved, except those that receive firm commitment by October 1, 1991. Any recaptured funds would be rescinded. The conferees believe that homeownership assistance provided under the Nehemiah program is an eligible activity under the HOME program.

Credit Enhancement. The Senate bill contained a provision not included in the House amendment that would have created a special commission to explore ways in which federal credit enhancement could be provided more effectively in conjunction with other forms of federal housing assistance. The conference report contains the Senate provision with an amendment to have the study carried out by GAO.

Repeal of Existing Housing Programs

The Senate bill contained a provision that was not included in the House amendment that would terminate grants for new construction and substantial rehabilitation in fiscal year 1991 under the rental rehabilitation; Section 312 loans; Nehemiah Housing Opportunity Grants program; moderate rehabilitation; except where funds are allocated under this authority for single-room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; Urban Homesteading; Congregate Housing Services; Housing Counseling (Sec. 106); lower income public housing projects; and HODAG. The conference report contains the Senate provision amended to repeal the following existing housing programs as of fiscal year 1992: grants for new construction and substantial rehabilitation under the rental rehabilitation; Section 312 loans; Nehemiah Housing Opportunity Grants program; moderate rehabilitation, except where funds are allocated under this authority for single-room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; and Urban Homesteading.

The conference report contains a provision requiring that any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that are unobligated on or after such date shall be paid into the general fund of the Treasury.

TITLE III–HOMEOWNERSHIP

Subtitle A–National Homeownership Trust Act

The House amendment contained a provision not included in the Senate bill that established the National Trust in the Department of Housing and Urban Development to provide interest rate buydowns and downpayment assistance to first-time homebuyers. The conference report contains the House provision with an amendment to change the name to "National

Homeownership Trust Act", to limit participation in the Trust to homebuyers who are 95 percent of median area income for a family of four persons (adjusted for family size), except in FHA high cost areas where the limit will be 115 percent of median area income for a family of four persons (adjusted for family size), and to include three demonstration programs. The amendment also requires participating homebuyers to have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured).

The Trust was created to address the decline in first-time homeownership due to high costs of housing, high costs involved in financing the purchase of a home, and the tighter underwriting standards in the mortgage marketplace. The Committee believes that the Trust provides vitally needed homeownership opportunities to low and moderate income families who could not otherwise afford to purchase a home through interest rate buydowns to a rate not to exceed 6 percent and through downpayment assistance.

The Trust would provide two forms of assistance to first-time homebuyers (including homebuyers buying shares in limited equity cooperatives): (1) payments to ensure that a rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent; and (2) payments to provide some or all of the downpayment (including closing costs and other costs payable at the time of closing) required by first-time homebuyers.

The House provision provided that the aggregate income of the homebuyer and family members residing with the homebuyer could not exceed 115 percent of the area median income for a family of four (adjusted for family size) during the 12 months prior to the date of application for assistance. The conference report amends this provision so that the aggregate income of the homebuyer and family members residing with the homebuyer cannot exceed 95 percent of the area median income for a family of four (adjusted for family size), except in areas that are subject to a high cost area mortgage limit under Title II of the National Housing Act (FHA). In such areas, the homebuyer's income cannot exceed 115 percent of the area median for a family of four (adjusted for family size). The Secretary would be required to provide for the recertification of income every two years. The homebuyer would be required to certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied such mortgage because the income of the homebuyers is insufficient. The assisted property would have to be a single-family residence or unit in a cooperative and the principal residence of the homebuyer. The principal obligation of the mortgage could not exceed the maximum amount which can be insured under the National Housing Act. The interest rate on the mortgage would be a fixed rate and cannot exceed the maximum rate established by the Trust. The mortgagee would be federally-insured or otherwise approved by the Trust. The mortgage would be insured under the National Housing Act or covered by private mortgage insurance. If covered by private mortgage insurance, the principal amount could not exceed 90 percent of the appraised value of the property. To receive downpayment assistance under this subtitle, the homebuyer would be required to pay at least one percent of the cost of acquisition. Since the absence of equity has been shown to contribute to homeowner default, the Committee requires that the homebuyer contribute at least one percent of the cost of acquisition to insure sufficient equity in the home to avert default. This equity contribution could be applied toward the downpayment requirement under FHA insured loans. Assistance payments must be secured by a subordinate lien on the assisted property. Assistance must be repaid without interest upon the sale of the property if there are proceeds from such sale.

If the homebuyer's income exceeds 115 percent of median income for two years or if the assisted property ceases to be the principal residence of the homebuyer, the Trust could require that the homebuyer begin to repay any assistance payments before any sale. The Trust could provide both interest rate assistance and down payment assistance at the same time to a single homebuyer. The Secretary would be required to allocate the assistance in a manner to assure equitable distribution among the States based on the number of eligible first-time homebuyers. The Committee intends that, in determining the need of eligible first-time homebuyers for assistance, the Secretary will take into account the fiscal capacity of first-time homebuyers in an area to afford a typical starter home within the area.

National Housing Trust Fund

The National Housing Trust Fund would be established in the Treasury. The Fund would consist of any appropriations and any repayments to the Fund, and any amount that the Trust earns on its investments in U.S. government securities. The Trust would be permitted to invest any amount beyond what is necessary to carry out the provisions of the Title in the obligations of the United States.

The House amendment contained three combined housing and economic development demonstrations in the Community Housing Partnership which were not contained in the Senate bill which the conference report now contains within the National Homeownership Trust Act. The first demonstration program is in Milwaukee, Wisconsin, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood, for which $4,200,000 is authorized out of the Trust. The second demonstration program is in Washington, District of Columbia, for non-profit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low and moderate-income families and to engage in neighborhood-based economic development activities, for which $10,000,000 is authorized out of the Trust. The third demonstration is in Philadelphia, Pennsylvania, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations, for which $1,000,000 is authorized out of the Trust.

The House amendment authorized $500 million for fiscal year 1991 and such sums for FY 1992 and FY 1993 to remain available until expended. The conference report authorizes $250,000,000 for FY 1991 and $521,500,000 for FY 1992.

The Secretary would be authorized to conclude the affairs of the Trust after termination. If the Secretary determines that the Trust is no longer necessary, the Secretary could transfer any remaining Trust funds to the Treasury. The Trust would terminate on September 30, 1993.

Downpayment Savings

Study. The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to study the actuarial soundness of implementing a program to guarantee downpayments for first-time homebuyers based on a system of downpayment savings accounts and payment schedules that require monthly or other periodic payments over a specified period of time in an amount equal to a specified percentage of the value of housing at the time of purchase. The conference report does not contain the Senate provision.

HOME Demonstration. The House amendment contained a provision that was not included in the Senate bill that would provide matching contributions for downpayments. It would provide funds for “matching contributions certificate” to eligible buyers who have established a HOME savings certificate account. Matching contribution certificates would be issued annually for each year of buyer’s eligibility. Such certificates can only be redeemed in connection with the purchase of a principal residence by an eligible buyer under this part. The conference report does not contain the House provision.

Subtitle B–FHA and Secondary Mortgage Market

FHA mortgage insurance authority. The House amendment contained a provision that would limit aggregate FHA mortgage insurance authority to $76,791,000,000 for FY 1991. The conference report contains the House provision with an amendment that would limit such authority for FY 1992 to $79,818,000,000.

Appraisal services. The House amendment contained a provision not included in the Senate bill that allows mortgagees approved for the FHA direct endorsement program to contract with an appraiser, including partnerships or sole proprietorships organized as corporations, to conduct an appraisal so long as such appraisals are consistent with standards and qualifications established by the Secretary. Individuals that meet the requirements for inclusion on fee panels established by the Secretary shall be eligible for such assignments notwithstanding their employment by an appraisal company and the contract for such persons services may be made with the employer. The conference report contains the House provision. This provision conforms with the appraisal reform provisions of FIRREA and with the policies and practices of the Federal financial institutions regulatory agencies, Fannie Mae and Freddie Mac. The conferees recognize that while this provision requires HUD to recognize valuation services provided by appraisal companies when those companies employ qualified appraisers, it continues the Secretary’s full authority and responsibility for assuring the integrity of HUD related appraisal services. The conferees believe that this provision will improve the quality and reliability of appraisal services in connection with HUD mortgage assistance and other housing programs; will promote uniformity among government agencies on the issue of eligibility to perform appraisals in federally related transactions; and will allow mortgage lenders who participate in HUD residential mortgage insurance programs to be more efficient in the appraisal component of the underwriting process.

The conferees believe the Secretary should approve and certify appraisers consistent with the Secretary's prescribed standards for all HUD approved fee appraisers or such other standards as the Secretary may prescribe.

FHA loan limits. The House amendment contained a provision that would amend Section 203(b)(2) to raise FHA maximum loan limits to 185% of area median ($124,875) on a permanent basis. The Senate bill contained a similar provision except it would only authorize the raised limit for two more years, until September 30, 1992. The conference report contains the House provision.

Mortgagor equity. The House amendment contained a provision that would limit the FHA insured principal obligation (including such initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary approves) to no more than the appraised value of the property. This change would apply to mortgages entered into on or after October 1, 1992. The Senate bill contained a provision that would limit FHA insured mortgages to principal obligations of no more than 98 percent of the properties appraised at less than $50,000 and 97 percent in the case of properties with an appraised value above $50,000, plus the amount of the mortgage insurance premium. "Appraised value" would mean the amount required to be set forth in a written statement as the appraised value of the property under Section 226 of the National Housing Act, or a similar amount determined by the Secretary, if Section 226 does not apply. The conference report contains the Senate provision with an amendment to change the limit of a FHA insured mortgage to a principal obligation from no more than 98 percent to no more than 98.75 percent of the appraised value of the property and from 97 percent to 97.75 percent in the case of a mortgage with an appraised value in excess of $50,000.

Mortgage insurance premium on 1–4 family dwellings

Up-front. The House amendment contained a provision that would require the Secretary to collect, at the time of insurance, a premium payment of 1.35 percent of the amount of the original insured principal obligation of the mortgage, which may be financed. The Senate bill did not contain a similar provision but would retain current law which requires at the time of insurance a premium payment of 3.8 percent of the amount of the original insured principal obligation of the mortgage, which may be financed. The conference report contains the House provision with an amendment to change the 1.35 percent insurance premium payment to 2.25 percent.

Periodic. The House amendment contained a provision that would provide for periodic premium payments of 0.6 percent of the remaining insured principal balance, and would not refund any part of the periodic premium upon prepayment. The Senate bill contained a provision that would permit the Secretary to require an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. The additional premium charge may not exceed an amount equal to 0.5 percent of the outstanding principal obligation of the mortgage without taking into account delinquent payments or prepayments. Such additional premium charge was required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The conference report contains the Senate provision with an amendment that requires a premium charge of 0.5 percent (A) for the first 11 years if the initial loan-to-value ratio of the mortgage is less than 90 percent of the appraised value, (B) for the first 30 years if the initial loan-to-value ratio of the mortgage is greater than or equal to 90 percent of the appraised value, and (C) for mortgages with an initial loan-to-value ratio greater than 95 percent of the appraised value, a premium charge of 0.55 percent for the first 30 years.

Effective date. The House amendment contained a provision which would require that the modified premium structure amendment apply to mortgages insured on or after October 1, 1995. The Senate bill contained no similar provision. The conference report contains the House provision with an amendment to change the effective date to October 1, 1994.

Transition. The House amendment contained a provision not included in the Senate bill which provides for transition rules under which upfront and periodic premium changes are phased in: 1991–92, 3.75% up-front, .24% periodic; 1993–95, 2.15% up-front, .48% periodic; 1996, 1.35% up-front, .60% periodic. The conference report contains the House provision amended to provide for transition rules as follows: (A) for mortgages executed during FYs 1991 and 1992 (but after the effective date of regulations), an up-front premium of 3.8 percent and an annual premium of 0.5 percent for mortgages (i) less than 90 percent of the appraised value for the first 5 years, (ii) greater than or equal to 90 percent of the appraised value but equal to

or less than 95 percent of such value, for the first 8 years, and (iii) greater than 95 percent of such value, for the first 10 years; (B) for mortgages executed during FYs 1993 and 1994, an up-front premium of 3.0 percent and an annual premium of 0.5 percent for mortgages (i) less than 90 percent of the appraised value for the first 7 years, (ii) greater than or equal to 90 percent of the appraised value but equal to or less than 95 percent of such value, for the first 12 years, and (iii) greater than 95 percent of such value, for the first 30 years.

Refunds. The House amendment contained a provision which would prohibit refunding the 1.35 percent up front premium. For mortgages insured during fiscal years 1991–1995, the Secretary could refund up to 50 percent of the amount over 1.35 percent. The Senate bill contained no similar provision. The conference report does not contain the House provision. Instead, the conference report requires the Secretary to refund all of the unearned premiums.

Limitation on secondary residences

The House amendment contained a provision which generally would prohibit the Secretary from insuring mortgages on secondary residences and included an exception that determines such a residence would be necessary to avoid undue hardship. For example, seasonal employment in differing locales may necessitate the mortgagor living in the second home for at least part of the year. The Senate bill contained no similar provision. The conference report adopted the House provision. In no instance will FHA be allowed to insure mortgages on vacation homes. This change would only apply to (1) mortgages insured pursuant to a conditional commitment issued after 60 days following the date of enactment or in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment; and (2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments. Any mortgage executed prior to the enactment of these amendments would continue to be governed under provisions as existed before the enactment of this provision. The Secretary can continue to insure mortgages under existing law until 60 days after the enactment of this statute.

Mortgage Counseling. The House amendment contained a provision not included in the Senate bill that permits FHA MMI Funds to be used to provide mortgage counseling to delinquent mortgagors with FHA insured mortgages. The conference report contains the House provision. The conferees recognize the importance and the value of providing mortgage counseling services to delinquent homeowners, especially those homeowners who find themselves faced with a temporary loss of income. The conferees believe that, in order to be a candidate for counseling services, the cost of which would be covered by the MMIF, the default must have been caused by circumstances beyond the mortgagor's control and/or, there must be a reasonable prospect that the mortgagor will be able to resume full mortgage payments after a temporary period of reduced or suspended payments. Given the financial condition of FHA's MMIF, the conferees intend that the Secretary establish criteria for the use of MMIF funds and for the selection of applicants for counseling services. The conferees direct the Secretary to take appropriate steps to reduce losses due to foreclosure by securing the services of experienced HUD approved nonprofit counseling agencies. Agencies selected should be those with a successful track record in delinquent mortgage counseling and those who operate in several states and locations either directly or through sub-contracting relationships. This coordination of counseling services will help insure quality controls as well as positioning these services to be more fully used by the mortgage industry which increasingly is more regional and national in scope.

Delegated processing. The Senate bill contained a provision that required the Secretary to implement a delegated multifamily insured mortgage processing system for mortgages insured pursuant to Sections 221, 223, 232, and 241 of the National Housing Act under which the Secretary retains authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment. The House amendment contained a similar provision but also included Section 207 of the National Housing Act. The conference report contains the Senate provision with an amendment to include Section 207.

Disclosure regarding interest due upon mortgage prepayment. The House amendment contained a provision not included in the Senate bill that requires each mortgagee to provide written notice to mortgagors, both annually and at the time of the mortgage, of possible interest liability upon prepayment. This applies to insured FHA mortgages outstanding 90 days after the effective date of regulations. The conference report contains the House provision.

Neighborhood accountability. The House amendment contained a provision not included in the Senate bill that would prohibit any FHA mortgagee from varying mortgage interest rates, the level of discount points, loan origination fees or any

other amount charged on the basis of the loan amount in the area.

The House provision would require the Secretary to assess the performance of the mortgagee in meeting the lending needs of the community, the consistency of the lending practices with safe and sound lending practices, and the mortgagee's record of FHA insured defaults. Such information would be considered by the Secretary in determining whether the mortgagee can continue to participate in the FHA insurance program. Should a mortgagee fail to meet the lending needs of the community, the Secretary would require the mortgagee to take steps to remedy the omission. Such steps would include filing a plan to remedy such deficiencies. Such plan would be developed through a public notice and comment process. If a mortgagee fails to comply with its plan, the Secretary could withdraw approval of the mortgagee for participation in the FHA program. The Secretary would report to Congress annually on actions taken to carry out these provisions.

The conference report contains the House provision with an amendment to permit an exception not to exceed 2 percent variation in the amounts changed for fees and discount points based upon the loan amount and makes conforming changes consistent with the HUD Reform Act of 1989. This section is intended to apply to Sec. 203 of the National Housing Act by loan type. For example, mortgages insured under the 203(k) program may be priced differently from mortgages insured under the 203(b) program. The Committee recognizes that different types of mortgages involve differing levels of risk, processing expenses or other factors that differentiate them and necessitate pricing variations. Mortgagees are subject to uniform pricing requirements of loans of varying amount but insured under the same subsection.

Actuarial soundness. The House amendment contained a provision that would require the Secretary to ensure that the MMI Fund attain a capital ratio of 1.25% within 24 months of enactment and 2% within 10 years. The Senate bill contained a similar provision except it would provide 18 months to attain 1.25%, and stated that the Secretary should endeavor to ensure that the fund attain a 2% capital ratio within 10 years. The conference report contains the House provision regarding the 1.25% capital ratio and the Senate provision regarding the 2% capital ratio.

Reports. The House amendment contained a provision that would require the Secretary to submit an annual report to Congress describing the actions the Secretary will take to ensure that the MMI Fund attains the required capital ratio. The Secretary would be required to annually conduct an independent actuarial study of the MMI Fund and report annually to Congress on the status of the Fund. The Senate bill contained a provision that would require the Secretary to report to Congress annually on the status of the Fund should the Fund fail to achieve the 1.25% capital ratio. Three years after enactment the Secretary would be required to begin reporting annually on the status of the Fund and on efforts to achieve the 2% goal. The conference report contains the House provision.

Operational goals. The House amendment contained a provision that would define the operational goals of the MMI Fund. The Senate bill contained a similar provision that would define the principles of operation.

The first goal of the House provision would be to maintain an adequate capital ratio. The Senate provision was similar except it specifies a capital ratio of 1.25% to be achieved in 18 months and 2% thereafter. The conference report contains the House provision.

The second goal of the House provision would be to meet the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit. The Senate provision is the same except it does not include meeting needs of homebuyers with low down payments. The conference report contains the House provision.

The third goal of the House provision would be to minimize the risk to the Fund and to homeowners from homeowner default. The Senate bill contained a similar provision. The conference report contains the House provision.

The Senate bill contains an additional principle of operation that was not included in the House amendment to avoid the problems of adverse selection by establishing premiums related to the probability of homeowner default. The conference report contains the Senate provision amended to state the operational goal as avoiding adverse selection. The conference report establishes periodic annual premiums that vary depending on the probability of homeowner default. The conferees believe that a risk-based premium is necessary to meet the four operational goals of the MMI Fund.

The House amendment contained a provision that would give the Secretary the authority, upon a determination of an

independent actuarial study, to propose and implement any adjustments to the insurance premiums or any other program requirements to achieve actuarial soundness. The Senate bill contained a similar provision. The conference report contains the House provision with an amendment to delete the reference to other program requirements.

Distributive Shares. The House amendment contained a provision that stated if, pursuant to the independent annual actuarial study, the Secretary determines the MMI Fund is not meeting its operational goals, the Secretary cannot issue distributions, and may by regulation, propose and implement any adjustments to the insurance premiums established by the Secretary to achieve such goals. The Senate bill contained a similar provision. The conference report contains the House provision.

The House amendment contained a provision not included in the Senate bill to authorize the Secretary to require payment on all mortgages that are obligations of the MMI Fund of an additional premium charge as determined by the Secretary to be consistent with sound actuarial practice. The conference report does not contain the House provision.

Mortgage Insurance in Virgin Islands. The House amendment contained a provision not included in the Senate bill that adds the Virgin Islands as a super high cost area for FHA insurance purposes. Current law permits the Secretary to authorize FHA mortgages beyond the $124,785 ceiling for Alaska, Hawaii, and Guam. The conference report contains the House provision.

221(g)(4) assignments. The House amendment contained a provision not included in the Senate bill that would provide that in connection with mortgages insured under Section 221 of the National Housing Act, the Secretary shall provide, to mortgagees who agree not to exercise their option to assign their mortgages to HUD, an incentive payment from the General Insurance Fund to the mortgagee in an amount equal to the present value at the time of assignment of the difference between the mortgage interest rate and the rate on similar mortgages in lieu of the issuance of debentures on the assignment of such mortgages as required by current law. The conference report contains the House provision amended to provide that the Secretary shall arrange for the sale of beneficial interests in the mortgage loan through an auction and sale of the mortgage loans or participation certificates or other mortgage-backed obligations in a form acceptable to the Secretary and that a mortgagee who elects to assign a mortgage must provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument (including principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of Federal subsidies and any other information determined by the Secretary to be appropriate). The Secretary is required in any auction to accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser of the original credit instrument and the mortgage securing such credit instrument (and its assigns who are approved mortgagees) in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest rate necessary to accomplish a sale of the participation certificates for the then unpaid principal balance plus accrued interest at a rate to be determined by the Secretary. The conferees recognize that, during the auction period, the mortgagee will not be accruing interest at the rate or rates applicable under the current assignment process. The conferees intend that the mortgagee would not be deprived of any economic benefits that the mortgagee would have received had the mortgage been assigned to HUD under the current assignment process. These economic benefits include interest to accrue at a rate or rates consistent with the rate of interest a mortgagee would have received under the current assignment process and the Secretary’s past interpretation of section 221(g)(4).

If no bids are received, the bids received are not acceptable to the Secretary, or settlement does not occur within 30–90 days, the mortgagee would retain all rights to assign the mortgage loan to the Secretary, including the right to interest for the period covering the auction process at a rate to be determined by the Secretary. The conferees intend that, if the auction is not consummated and the mortgage is assigned to HUD, the mortgagee would not be deprived of any economic benefits that the mortgagee would have received had the mortgage been assigned to HUD under the current assignment process. These economic benefits include interest to accrue at a rate or rates consistent with the rate of interest a mortgagee would have received under the current assignment process and the Secretary’s past interpretation of this statute.

Report on FHA defaults. The House amendment contained a provision not included in the Senate bill that would require the Secretary to publish quarterly reports of early defaults and foreclosures on FHA-insured housing. Each report would contain for each lender originating single-family insured mortgages in a designated census tract (1) the name of lenders and the number of each census tract in which the lender originated one or more loans; (2) the total number of such mortgages originated by each such lender in each census tract; (3) the total number of defaults and foreclosures during the specified

reporting period by census tract; (4) for each census tract, the percentage of each lender's total insured mortgages on which defaults or foreclosures have occurred during the applicable reporting period; (5) the total of all such originations, defaults, and foreclosures on insured mortgages originated by each such lender during the reporting period for all census tracts and the percentage of the total number of such lender's insured mortgages on which defaults or foreclosures have occurred. It would also require data (1) for each lender, the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages and the percentage of such mortgages originated on which defaults or foreclosures occurred; and (2) for each census tract, the total number of mortgages originated during the applicable reporting period, the number of defaults and foreclosures and the percentage of the total insured originations on which defaults or foreclosures occurred. Until the first report under this section is published, the Secretary would have to make publicly available all reports regarding "Default/Claim Rates per Regional Office for FY 90 Endorsements" produced by HUD.

The conference report contains the House provision with an amendment to require that information be kept by HUD in a data bank made available to the public and that HUD issue an annual report, instead of a quarterly report, containing the data from the data bank. To minimize bureaucracy, costs, and paperwork, the Committee has reduced HUD's reporting requirement from quarterly to annually. The Committee still intends that the information in the data bank will be updated on a quarterly basis and be publicly accessible upon demand.

Home Equity Conversion Mortgages. The House amendment contained a provision to extend the reverse mortgage program until September 30, 1994, and requires disclosure of the extent of the liability of the homeowner under the mortgage and the projected total future loan balances for at least 2 projected loan terms which shall include the costs for a short-term mortgage and the costs for a long-term mortgage equaling the life expectancy of the borrower and the cost of the mortgage. The Senate bill contained a similar provision except it only extended the program until 1993 and contained similar disclosure requirements. The conference report contains the House provision with an amendment to extend the program through fiscal year 1995.

Disapproval of property disposition regulations. The House amendment contained a provision not included in the Senate bill to permit homeless assistance providers to obtain HUD-held property for use under the $1 lease program without a 30-day waiting period by disapproving Section 291.1(c)(2) of the interim rule of HUD entitled "Disposition of HUD-Acquired Single Family Property" (55 Fed. Reg. 1161 et seq.). It prohibited the Secretary from publishing a final rule containing or based on such provision. The conference report contains the House provision. The conferees intend that HUD is prohibited from publishing a final rule containing or based upon such restrictions which will inhibit the transfer of eligible FHA property for homeless assistance.

Report on Foreclosed Properties. The Senate bill contained a provision not included in the House amendment that would require HUD to submit a report to Congress containing strategies and action plans to assist in the disposition of HUD foreclosed properties giving special emphasis to properties within the HUD inventory for over one year. The conference report contains the Senate provision.

GNMA guarantees. The House amendment contained a provision not included in the Senate bill that would limit aggregate GNMA mortgage-backed security (MBS) guarantee authority to $84,982,040,000 for FY 1991 and to $88,296,339,000 for FY 1992. The conference report contains the House provision with an amendment to limit GNMA MBS authority to $84,982,000,000 for FY 1991 and $88,296,000,000 for FY 1992.

Loan limits for property insurance loans. The House amendment contained a provision not included in the Senate bill that would increase the loan limits for property improvement insurance to $30,000 for single family structures, and $75,000, or a maximum average of $15,000 per unit, for the improvement or conversions of an existing structure to rental use. Would increase loan term units for single family improvement loans and conversion loans to 20 years and 32 days and maintains the loan term for manufactured home improvement and conversion loans at 15 years 32 days. Also would expand the loan term for improvement and conversion loans for an apartment house or dwelling used by two or more families to 20 years 32 days. The conference report contains the House provision with an amendment (1) that the loan limits will not be increased before the release by HUD of a report on need to raise the limit to be complete by June 1, 1991; (2) to increase loan limits to $25,000 for single family homes and to $60,000 for multifamily or a maximum of $12,000 per unit; (3) to have changes go into effect on June 1, 1990, and (4) to make no high cost area adjustments except that the Secretary is given the discretion to

raise limits for high cost areas.

Sec. 235 homeownership. The House amendment contained a provision not included in the Senate bill that would extend Section 235 homeownership assistance payments authority, insurance authority, and housing stimulus authority until September 30, 1991, and removes Section 235 program sunset. The conference report does not contain the House provision.

Sense of Senate provisions. The Senate bill contained two Sense of the Senate resolutions not included in the House bill. One was that the Secretary had sufficient authority to redefine the term "area" under Section 203 of the National Housing Act in designating areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies. The second was that Individual Retirement Accounts should be able to be withdrawn without penalty for the purpose of a first-time home purchase, and that appropriate changes in law should be considered as part of tax legislation during this session of Congress. The conference report does not contain either Senate resolution.

TITLE IV–HOMEOWNERSHIP AND OPPORTUNITY THROUGH HOPE

Short title. The House amendment contained a provision not included in the Senate bill that would provide the title "Homeownership and Opportunity for People Everywhere Act of 1990". The conference agreement contains the title "Homeownership Opportunity Through HOPE Act".

Authorizations. The House amendment would authorize $136 million for FY 1991 for HOPE for Public and Indian Housing (HOPE I). The Senate bill contained a provision that would authorize $96 million in FY 1991, $260 million in FY 1992 and $400 million for FY 1993 for HOPE I. The conference report authorizes $68 million in FY 1991 and $380 million in FY 1992 for HOPE I. The House amendment authorized $102 million for FY 1991 for HOPE for Multifamily Units (HOPE II). The Senate bill would authorize $72 million for FY 1991, $195 million for FY 1992 and $300 million for FY 1993 for HOPE II. The conference report authorizes $51 million in FY 1991 and $280 million in FY 1992. The House amendment would authorize $72 million for HOPE for Single Family Homes (HOPE III). The Senate bill would authorize $72 million for FY 1991, $195 million for FY 1992 and $300 million for FY 1993 for HOPE III. The conference report authorizes $36 million in FY 1991 and $195 million in FY 1992 for HOPE III.

Eligible properties. The House amendment contained a provision not included in the Senate bill that would exclude scattered site public housing from HOPE I. The conference report contains the House provision.

The House amendment contained a provision that would define the term "eligible property" in HOPE II as meaning a multi-family rental property, containing 5 or more units, that is (a) owned or held by the Secretary; (b) financed by a loan or mortgage held by the Secretary or insured by the Secretary; (c) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or (d) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government. The Senate bill contained a similar provision except that it expressly includes loans held by the Secretary under section 312 of the 1964 Housing Act or the NHA. For purposes of technical assistance grants under section 412, the term "eligible property" would also mean single family property containing no more than four units owned by the Secretary and eligible low-income housing as defined in the Low-Income Housing Preservation and Resident Homeownership of 1990. For purposes of planning grants under Section 413(b)(8), the term "eligible property" would also mean a property insured under the National Housing Act and assisted under Section 8 of the 1937 U.S. Housing Act. The conference report contains the House provision.

The House amendment contained a provision that would define the term "eligible property" in HOPE III as a single family property containing no more than four units that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property) or a public housing agency or an Indian housing authority (including scattered site family properties and properties held by institutions within the Resolution Trust Corporation jurisdiction). The Senate bill contained a similar provision except that the term eligible property would include a multi-family property containing 5 or more units that is owned by any public entity specified in subparagraph (a), other than by the Secretary or a public housing agency, or manufactured housing owned by the Secretary. The conference report contains the House provision.

Grant authority. The House amendment contained a provision that would authorize the Secretary to make planning and

implementation grants to develop and carry out HOPE homeownership programs. The Senate bill contained a provision that would be similar except: in HOPE I, program authority would be for specific public housing projects and homeownership programs; HOPE II would provide for technical assistance grants; and HOPE III would not provide for planning grants. The conference report contains the House provision.

Grant limitations. The House amendment contained a provision that would provide that no more than 15 percent of the appropriated amounts for any fiscal year could be used for planning grants; and no more than 5 percent of the amount reserved for planning grants could be used for grants to any single grant recipient. The Senate bill would limit amounts appropriated for planning grants for HOPE I to no more than $2,000,000 in any fiscal year. Assistance for planning grants with respect to any public housing project would be limited to $100,000. In HOPE II planning and technical grants each would be limited to $1 million of appropriated amounts. Assistance for planning grants for any single property would be limited to $100,000.

The conference report contains the Senate provision with an amendment to limit planning grants to $200,000 with waiver authority given to the Secretary to exceed this limit.

Authority to reserve housing assistance. The House amendment would provide that, in HOPE I, the Secretary could reserve authority to provide assistance under Section 8 of this Act (other than assistance under section 8(o)) to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in that or another project. The Secretary could also reserve authority to provide such assistance in connection with replacement of units under HOPE I. The House amendment contained a similar provision for HOPE II except the provision for replacement housing would not be included. For HOPE I, the Senate bill would be similar to the House provision except Section 8(o) vouchers would be authorized as a means of rental assistance and such Section 8 assistance would not be available for use by the tenant in the project in which he currently resides. The Secretary would not be given authority to reserve such rental assistance in connection with replacement of units. For HOPE II, the Senate bill would also contain a provision similar to the House amendment, except that voucher assistance and Section 8 assistance could be provided for assistance in purchasing a unit. The House amendment would provide no section 8 assistance for HOPE III. The Senate bill would allow the Secretary to reserve Section 8 assistance (both certificates and vouchers) for use as rental assistance for non-purchasing tenants in the project subject to the HOPE program or any other unit. The conference report contains the Senate provisions for HOPE I and II. The conference report contains the House provision for HOPE III.

Planning Grants

Eligible activities. The House amendment would provide that planning grants for HOPE I, II and III could be used for activities to develop homeownership programs (which could include programs for cooperative ownership). The Senate bill included a similar provision for HOPE I and II except that programs for cooperative ownership would not be expressly included. The Senate bill would not provide planning grants for HOPE III. The conference report contains the House provision with amendments to allow: economic development activities that promote economic self-sufficiency of homebuyers and homeownership program; legal fees; defraying costs for the ongoing training needs of the recipient that are directly related to developing and carrying out the homeownership program. Operating subsidies would be limited to the amount previously funded.

Application. The House amendment would require that an application contain a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested. The Senate bill was similar except that there would be no requirement that the request for a planning grant specify the personnel necessary to complete the activities and there would be a requirement that an application contain, at a minimum, a certification by the public official responsible for submitting the comprehensive housing strategy under section 105 of the NAHA Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located. The conference report contains the House provision with an amendment to include the Senate requirement that an application contain a certification that the proposed activities are consistent with the approved housing strategy of the state or local government within which the project is located.

Selection criteria. The House amendment would require that, for HOPE I, II and III, the Secretary establish by regulation selection criteria for a national competition for assistance under this section, which would include the potential of the applicant for developing a successful and affordable homeownership program, the suitability of the project for homeownership, and national geographic diversity among projects for which applicants are selected to receive assistance. The House amendment would also require that the Secretary consider the availability and suitability of properties in the relevant geographical area for HOPE II projects. For HOPE I and II, the Senate bill would include a similar except provision except that it does not expressly require that the Secretary establish the selection criteria by regulation and the selection criteria need not include national geographic diversity. The Senate provision would require that the selection criteria include the potential capabilities of the applicant and the potential for developing an affordable homeownership program. The Senate bill would not provide planning grants for HOPE III. The conference report contains the House provision with an amendment to include provisions which require that the selection criteria include the potential capabilities of the applicant and the potential for developing an affordable homeownership program.

Technical assistance grants. The Senate bill contained a provision not included in the House amendment that would authorize the Secretary to make technical assistance grants to applicants for the purpose of developing the capacity of applicants to develop and carry out homeownership programs under HOPE II and under the Low-Income Housing Preservation Act of 1990, and to develop and carry out other homeownership opportunities involving acquisition of single family property, containing no more than four units, owned by the Secretary. The conference report does not contain that provision.

Implementation grants

General authority. The House amendment would authorize the Secretary to make implementation grants to applicants for HOPE I, II or III for the purpose of carrying out homeownership programs that meet the requirements of this title. The Senate bill was similar except that the homeownership programs must be approved under the title. The conference report contains the Senate provision.

Eligible activities. The House amendment would provide that implementation grants could be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle. The Senate bill is similar except that it would not expressly include certain programs contained in the House amendment. The conference report contains the House provision with amendments to allow: economic development activities that promote economic self-sufficiency of homebuyers and homeownership program; legal fees; defraying costs for the ongoing training needs of the recipient that are directly related to developing and carrying out the homeownership program. Operating subsidies would be limited to the amount previously funded.

Matching requirements. The House amendment would require that each HOPE I, II or III grant recipient ensure that at least one-third of the total cost of eligible activities be provided from non-Federal sources. The Senate bill would require a 25 percent match of HUD grant by non-Federal sources. The House amendment would include block grants made available by the Federal Government to States or local governments on a formula basis as non-federal sources. The Senate bill would not include Federal tax expenditures or funds from a grant made under Section 106(b) or Section 106(d) of the 1974 Housing and Community Development Act except for administrative expenses as non-federal sources. The House amendment would allow a recipient to include the value of such items as the Secretary determines to be appropriate, if such items have a readily discernible market value, in determining compliance with this subsection. The Senate bill would include as eligible matching funds the value of taxes, fees, or other charges that are waived, foregone, or deferred to facilitate the implementation of a homeownership program; the value of land or other real property (except in HOPE III); the value of investment in on-site and off-site infrastructure required for a homeownership program; or such other in-kind contributions as the Secretary may approve with no requirement for readily discernible market value. Contributions for administrative expenses could be recognized only up to an amount equal to 7 percent of the total amount of grants made available. The conference report contains the Senate provisions with amendments to establish a 4 to 1 match for HOPE I and a 3 to 1 match for HOPE II and III. Post-sale subsidies would not have to be matched.

Application. The House amendment contains provisions which specify what applications for HOPE I, II and III must contain. The Senate bill contains similar provisions. The conference report contains the House provision with amendments to require the certification by the public official responsible for submitting the comprehensive housing affordability strategy; and require identification of property management.

Selection criteria. The House amendment contained provisions which would specify that selection criteria include the feasibility of the homeownership program; the extent to which the project receives support from entities other than those assisted under this title (HOPE III does not include this criteria); national geographic diversity among housing for which applicants are selected to receive assistance; and the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program would not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units. The Senate bill contained a similar provision but would not include the requirement for showing feasibility, geographic diversity, or the status of the supply of housing in the area. The Senate bill would require that the criteria include: the quality and viability of the proposed homeownership program, including under HOPE I the viability of the economic self-sufficiency plan; and whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the NAHA. HOPE II would include the extent and urgency of the need to approve an application in order to provide homeownership of units in the property. HOPE III would also include the extent to which suitable eligible property is available for use under the program in the area to be served and the extent to which the types of property expected to be covered by the homeownership program are federally owned. The conference report contains the Senate provision with an amendment incorporating the feasibility of the homeownership program; national geographic diversity and the status of the supply of housing in the area.

Approval. The House amendment contained a provision that would require the Secretary to notify each applicant of the application's approval or disapproval, not later than 6 months after the date of the submission of the application. The House amendment would provide, where applicable, that the Secretary could approve the application for an implementation grant with approval of the application for section 8 assistance for non-purchasing residents of the project conditional upon the availability of appropriations in subsequent fiscal years. The Senate bill would require the Secretary to notify the applicant whether the application is approved or not approved and provide that the Secretary could approve the application for an implementation grant with a statement that the application for the section 9 or Section 8 assistance is conditionally approved, subject to the availability of appropriations in subsequent fiscal years. No approval would be required for HOPE III. The conference report contains the House provision.

Limitation on HOPE I implementation grants. The Senate bill contained a provision not included in the House amendment that would provide that the Secretary could approve applications for grants under HOPE I or II only for public housing projects located within the boundaries of jurisdictions that are participating jurisdictions under title III of the NAHA. The conference report contains the Senate provision with an amendment allowing non-HOP eligible jurisdictions to have a housing plan submitted by the agency responsible for affordable housing.

Homeownership Program Requirements

Affordability. The House amendment contained a provision not included in the Senate bill that would require a homeownership program under HOPE I or II to provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property such that an eligible family would not be required to expend more than 30 percent of their adjusted monthly income to complete a sale under the homeownership program. The House amendment would require a homeownership program under HOPE III to provide for the eligible family to make payments toward the costs of homeownership (including principal, insurance, taxes, and interest and closing costs) in an amount not to exceed 30 percent of the adjusted income of the family. The conference report contains the House provision.

Required participation. The House amendment contained a provision not included in the Senate bill that would require that all tenants in a HOPE III property participate in the homeownership program before the property could be included in the program. The conference report contains the House provision.

Required plans. The House amendment contained a provision not included in the Senate bill that would require a homeownership program under this title to provide a plan for: identifying and selecting eligible families to participate in the homeownership program; providing relocation assistance to families who elect to move; ensuring continued affordability by tenants, homebuyers, and homeowners in the project; providing ongoing training and counseling for homebuyers and homeowners in HOPE I and II; and replacing units in eligible projects covered by a homeownership program for HOPE I.

The conference report contains the House provision.

Acquisition and rehabilitation limitations. The House amendment contained a provision not included in the Senate bill that would provide that acquisition or rehabilitation of projects under a homeownership program in HOPE I or II could not consist of acquisition or rehabilitation of less than the whole project in a project consisting of more than 1 building. It would also provide that the provisions of this subsection could be waived upon a finding by the Secretary that the sale of less than all of the buildings in a project would be feasible and would not result in a hardship to any tenants of the project who are not included in the homeownership program. The conference report contains the House provision.

Financing. The Senate bill contained a provision that would require identification and description of the financing proposed for any rehabilitation and acquisition of the property for transfer to eligible families, or by eligible families with ownership interests in, or shares representing, units in the property. Financing could include conventional mortgage or FHA. The House amendment contained a similar provision with the requirement that the financing plan be contained in application which applies to all HOPE programs. The Senate bill also contained a provision not included in the House amendment that would prohibit property transferred under this title to be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that such encumbrances would not: threaten the long-term availability of the property for occupancy by low-income families or expose the Federal Government or the public housing agency to undue risks related to action that could be taken pursuant to default. The Secretary would also have to determine that any debt obligation could be serviced from project income, including operating assistance that would be provided in accordance with operating subsidies; and the proceeds of such encumbrances would be used only to meet housing standards in accordance with subsection (c) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title. The House amendment contained a provision that would require that any lender that provides financing in connection with a homeownership program under this title would give the public housing agency, resident management corporation, purchasers of individual units, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default. The Senate bill contained a similar provision, except that it would not extend default protection to purchasers of individual units. The conference report contains the Senate provision with an amendment to include in application and to conform to changes in source of operating subsidies.

Housing quality standards. The House amendment contained a provision that would require that the application include a plan ensuring that the unit would be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and would meet housing quality standards established by the Secretary for the purpose of this title not later than 2 years after transfer of an ownership in, or shares representing, a unit to an eligible family. The Senate bill contained a provision that would require that projects transferred under this title meet housing standards established by the Secretary. It would provide that the Secretary, in response to a written plan contained in an application, could give an applicant a period of not to exceed 3 years (from the date the property is transferred to the applicant to meet such housing standards. Neither a public housing agency under HOPE I or the Secretary or an existing owner under HOPE II could convey fee simple title to a project until the property meets the housing standards established under paragraph (1). Under HOPE III, the Senate bill would require the eligible family to make or cause to be made repairs and improvements required to correct all defects that pose a substantial danger to health and safety within one year, make such repairs and improvements to the property as may be necessary to meet housing standards established by the Secretary within three years and permit reasonable periodic inspections at reasonable times by the unit of general local government or the recipient. The conference report contains the House provision for HOPE I, II and III with an amendment to include a prohibition on conveying fee simple title until the property meets the minimum prescribed housing standards.

Replacement plan. The House amendment contained a provision that would require each homeownership program under HOPE I to provide for the replacement of each unit covered by the program for which the ownership interest is not retained by the public housing agency. It would require that such replacement would be in the form of a 5-year contract for tenant-based assistance under section 8(b). The Senate bill contained a provision that would prohibit public housing projects from being transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency any Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing could consist of the development of new public housing units by the public housing agency in accordance with section 5; the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1);

the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9); the use of a State or local program that is comparable to any of the Federal programs referred to above as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years; where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or any combination of such methods. The Senate bill would also require that tenant-based rental assistance under section 8 (or a comparable State or local program) would be counted as replacement housing only if the Secretary finds that replacement with assistance specified above is not feasible, and the supply of private rental housing actually available to those who would receive tenant-based assistance is sufficient for the total number of certificates and vouchers available in the community and that such supply is likely to remain available for the full 5-year term of such assistance. It would provide that, notwithstanding the preceding sentence, vouchers could be used to provide replacement housing in any community where the vacancy rate for standard rental units exceeds the national average vacancy rate for such units. The conference report contains the Senate provision with an amendment to delete the requirements related to the use of tenant-based rental assistance.

Protection of existing tenants. The House amendment contained a provision that would require the recipient to inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, for HOPE I the public housing agency will offer each tenant (a) a unit in another public housing project, or (b) assistance under Section 8 (other than assistance under subsection (o) of such section), for use in that or another project, and for HOPE II Section 8 assistance (other than under 8(o)) for use in the program project or another project. In both programs, tenants that elect to move would receive relocation assistance. If a tenant in a HOPE I project decides not to purchase a unit, or is not qualified to do so, the Senate bill would require the recipient to permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with 1937 Housing Act during the term of the operating assistance contract. If an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency would offer such tenant a unit in another public housing project, or section 8 assistance for use in other housing.

The Senate bill would also require that tenants renting a unit in a project transferred under this subtitle would have all rights provided to tenants of public housing under this Act. The Senate bill contained a provision, applicable to HOPE II, which was similar to the House provision except that vouchers would not be expressly forbidden. The conference report contains the Senate provision.

Other program requirements

Required transfer. The House amendment contained a provision that would require that, where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant (or other entity, including a for-profit entity or a nonprofit entity in cooperation with an applicant) under HOPE I, the public housing agency would transfer the project to such other entity, in accordance with the approved homeownership program. The Senate bill contained a similar provision except that it would not state that purchasing entities could include a for-profit entity or a nonprofit entity in cooperation with an applicant. The conference report contains the Senate provision.

Preferences. The House amendment contained a provision that would require a recipient of an implementation grant under HOPE I or II to give preference to current tenants in selecting eligible families for homeownership. The Senate bill contained a similar provision except that the recipient would give a second preference to otherwise qualified eligible families who have completed participation in the project independence program authorized under section 14(j) of the NAHA, or in another economic self-sufficiency program specified by the Secretary. The Senate bill contained a provision in HOPE III not included in the House amendment that would require that the preference for certain categories of eligible families under sections 8(d)(1)(a) and 8(o)(3) must not apply to the provision of assistance to a family residing in a dwelling unit in an eligible property on the date the Secretary approves an application for an implementation grant. The conference report contains the Senate provision with an amendment deleting reference to Project Independence.

Operating subsidies. The House amendment contained a provision in HOPE I which would provide that operating subsidies under section 9 of the 1937 Housing Act would not be available with respect to a public housing project after the date of its sale by the public housing agency. The Senate bill contained a provision which would provide that, to the extent that the total income of a public housing project transferred under this title is not sufficient to cover the costs of operation, the public

housing agency could enter into a 5-year operating assistance contract, from amounts made available for use under section 9, to provide assistance for the operating costs of an approved homeownership program. The total amount of the contract would not exceed 5 times the current annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary. The assistance would be paid on an annual basis, and the assistance could not exceed an amount for each year that is equal to the annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary. The conference report contains the House provision.

Use of proceeds. The House amendment contained a provision that would require the entity that transfers ownership interest in units to eligible families, or another entity specified in the approved application, use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The Senate bill contained a provision that was similar except that the transferring entity could use only 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program. The remaining 50 percent would be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity would keep and make available to the Secretary all records necessary to accurately calculate payments due the Secretary under this subsection. This restriction would apply only to multifamily units in HOPE III. The conference report contains the House provision.

Restrictions on resale. The House amendment contained a provision that would permit a homeowner under a homeownership program to transfer the homeowner's ownership interest in, or shares representing, the unit. Where a grant recipient (in the case of HOPE II), resident management corporation, resident council, or cooperative has jurisdiction over the unit, the grant recipient (HOPE II) corporation, council, or cooperative would have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. Where such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a lower income family, the public housing agency or the implementation grant recipient would have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

The Senate bill was similar except that the homeowner could transfer the homeowner's interest in or shares representing the units only to low-income families; and only at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return, including any improvements, and to ensure that the housing would remain affordable to a reasonable range of low-income homebuyers. Where a resident management corporation or resident council elects to purchase, it would make the unit available for purchase by eligible families in accordance with the preferences that would apply upon the initial sale of the unit.

The House amendment included a provision not included in the Senate bill that would provide that the homeownership program could establish additional restrictions on the resale of a unit under the program.

The House bill would require that, with respect to a homeowner assisted under a homeownership program under this title, if such homeowner sells a unit or shares representing a unit within 5 years after acquisition by the homeowner, the Secretary would provide for the recapture of: an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts: any equity interest of the homeowner in the unit (including any costs paid at closing); the value of any improvements made by the homeowner during ownership of the unit; and an amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner. The Senate bill would require that if the sale to the first eligible family is for less than market value, the homeownership program must provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. It would require that the plan provide for authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period; limiting the family's consideration for its interest in the property to the total of the contribution to equity paid by the family; the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and (iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that

transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed; execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

The Senate bill contained a provision not included in the House amendment that would provide that upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, would ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

The House bill would require that any portion of the net sales proceeds in HOPE I, II and III, not be retained by the homeowner pursuant to recapture of the proceeds, would be returned to the Secretary for use under this title, subject to approval under appropriations Acts. The Senate bill would provide that 50 percent of any portion of the net sales proceeds that may not be retained by the homeowner would be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent would be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity would keep and make available to the Secretary all records necessary to accurately calculate payments due the Secretary under this subsection. For HOPE III, the Senate bill would provide that in the case of multifamily projects, 50 percent of any portion of the net sales proceeds that may not be retained by homeowner under the approved plan must be paid to the recipient, for use by the recipient for eligible activities under HOPE III. The remaining 50 percent of such proceeds would be returned to the Secretary for use under HOPE III, subject to limitations contained in appropriations Acts. Such entity would keep and make available to the Secretary all records necessary to calculate accurately payments due to the Secretary under this subsection.

The House amendment contained a provision in HOPE I and II not included in the Senate bill that would provide that the requirements under this subsection regarding rehabilitation, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of properties under this subsection or their successors in interest with respect to other actions by affected lower income families, resident management corporations, resident councils (public housing agencies in the case of HOPE I), and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence would be entitled to reasonable attorney fees upon prevailing in any such judicial action.

The conference report contains the House provision with an amendment to restrict profit for 6 years and recapture subsidies for up to 15 years.

Limit on economic developmental activities. The House amendment contained a provision applicable to HOPE I and II that would provide that not more than an aggregate of $250,000 from amounts made available could be used for economic development activities. The Senate bill contained a similar provision in HOPE I except that the dollar limitation on economic development activities would include amounts made available under section 14 of this Act in addition to those made available for economic development activities under this title. The Senate bill also contained a provision in HOPE II that was similar except the aggregate limitation is $225,000 and amounts under Section 14 of this Act would not be included.

Timely homeownership. The Senate bill contained a provision not included in the House amendment that would require that grant recipients transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. It would require that during the interim period when the property continues to be operated and managed as rental housing, the recipient would utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for very low-income families. It would require the recipient to promptly notify in writing any rejected applicant of the grounds for any rejection. The Senate bill would require that tenants renting a unit in a project transferred under HOPE I would have all rights provided to tenants of public housing under this Act. The conference report contains the Senate provision with an amendment to delete the word “very”.

Records and audit. The Senate bill contained a provision not included in the House amendment that would require each recipient under HOPE I or II to keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing or sales), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit. It would provide the Secretary and the Comptroller General with access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title. The conference report contains the Senate provision.

Continuation of mortgage terms. The House amendment contained a provision that would require that any recipient of a grant that assumes a mortgage covering eligible property would, in addition to any requirements of the homeownership program, comply with the low-income affordability restrictions under the mortgage for a period not shorter than the remaining term of the mortgage. The Senate bill contained a similar provision except that the continuation of affordability restrictions would only apply to an entity that (as determined by the Secretary) intends to own the housing on a permanent basis. The conference report contains the Senate provision.

Foreclosure of HUD assisted property. The Senate bill contained a provision not included in the House amendment that would provide that in connection with a foreclosure sale, the Secretary could require, as a term or condition of sale under HOPE II, that an eligible property be used by the purchaser, and its successors and assigns only in accord with an approved homeownership program. The conference report does not contain that provision.

Definitions

Eligible Family. The House amendment contained a provision that would define "eligible family" in HOPE I as a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant; a lower income family; or a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-lower income families assisted under any mortgage insurance program administered by either Secretary). The Senate bill contained a similar provision except that the definition of the term "eligible family" would not exclude any non-lower income families assisted under any mortgage insurance program administered by either the Secretary of Agriculture or the HUD Secretary. The House bill would define the term "eligible family" under HOPE III as a family or individual who has an income that does not exceed 80 percent of the median income for the area and is a first-time homebuyer. The Senate bill contained a similar provision except that the term "eligible family" would include families or individuals who do not currently own a home. The conference report contains the House provision with a conforming amendment which changes "lower income" to low income.

Recipient. The House amendment contained a provision that would define the term "recipient" as meaning an applicant approved to receive a grant under this title. The Senate bill contained a provision that would be similar except that the term "recipient" could also mean such other entity specified in the approved application that would assume the obligations of the recipient under this title. The conference report contains the Senate provision.

Relationships to other programs. The House amendment contained a provision that would require that the program authorized under this title would be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) and title II of this Act. The Senate bill contained a provision that would provide that the provisions of this title would not apply to housing developed or transferred for homeownership purposes prior to the enactment of the **NationalAffordableHousingAct** under the turnkey III, the mutual help, or any other homeownership program established under section 5(h), section 6(c)(4)(d), or section 21 of this Act. The conference report contains the Senate provision with an amendment to allow for 5(h) to continue with HOPE replacement housing requirements.

Annual report. The Senate bill contained a provision not included in the House amendment that would require the Secretary to annually submit to the Congress a report setting forth the number, type, and cost of public housing units pursuant to this title; the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title; the amount and type of financial assistance provided under and in conjunction with this title; the amount of financial assistance provided under this title that was needed to ensure affordability

and meet future maintenance and repair costs; and the recommendations of the Secretary for statutory and regulatory improvements to the program. Any authority of the Secretary under this title to provide financial assistance, or to enter into contracts to provide financial assistance, would be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act. The conference report contains the Senate provision.

Limitation on selection criteria. The House amendment contained a provision not included in the Senate bill that would provide that, in establishing criteria for selecting applicants to receive assistance, the Secretary could not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located. The conference report contains the House provision.

Amendments relating to demolition and disposition of public housing. The House amendment contained a provision that would amend Section 18(b)(1) of the 1937 United States Housing Act by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application". The Senate bill contained a similar provision except tenant cooperatives would not be included. The conference report contains the House provision.

The Senate bill contained an additional provision not included in the House amendment that would provide that the provisions of Section 18 would not apply to the disposition of a public housing project in accordance with an approved homeownership program under HOPE I. The conference report contains the Senate provision.

Amendment to Section 8. The Senate bill contained a provision not included in the House amendment that would make conforming amendments to allow for Section 8 certificates and voucher assistance for families that qualify because of their participation in a HOPE project voucher in connection with a homeownership program approved under title IV of the **NationalAffordableHousingAct**. The conference report contains the Senate provision.

Section 8 assistance. The Senate bill contained a provision not included in the House amendment that would provide that to the extent that the total income of an eligible property transferred under HOPE II is not sufficient to cover the costs of operation, the Secretary could extend existing contracts for loan management assistance for up to 5 years and, if such extensions are not sufficient, provide additional rental assistance under section 8(b)(3) subject to the availability of appropriations to provide assistance for the operating costs of an approved homeownership program. The Senate bill would provide that the requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(a) and 8(o)(3) would not apply to the provision of assistance to a family residing in a dwelling unit in an eligible project on the date the Secretary approves an application for an implementation grant. The conference report contains the Senate provision.

Related CIAP amendments. The Senate bill contained a provision not included in the House amendment that would require the Secretary to make assistance available in the form of grants for the purpose of rehabilitating vacant public housing units as replacement housing for public housing. The conference report does not contain that provision but contains an amendment to allow for 5(h) scattered site and to prevent CIAP from being used post-sale.

Transition for Section 21A demonstration. The House amendment contained a provision that would amend Section 21 Public Homeownership and Management Opportunities provisions of the 1937 United States Housing Act. The Secretary would be allowed to provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, training, technical assistance, and educational assistance as necessary to promote homeownership opportunities under Section 21. The Secretary could use not more than $3,000,000 in any fiscal year of amounts appropriated for CIAP to carry out this subparagraph. Section 21 would not be in effect after the effective date of the regulations implementing subtitle A of title III of the U.S. Housing Act of 1937 but would provide transition to allow for continuation of resident management development and project transfers if such were initiated before the effective date. The Senate bill contains a provision that would terminate Section 5(h) and Section 21 of the 1937 United States Housing Act on the effective date of enactment of this Act. This termination would not affect housing transferred for homeownership purposes prior to enactment of this Act under Section 5(h) or Section 21 of this Act. The conference report contains the House provision with an amendment to limit the authorization of $3 million for fiscal year 1991 only.

Operating subsidies. The Senate bill contained a provision not included in the House amendment that would provide that if a public housing agency transfers a public housing project in accordance with an approved homeownership program, the payments received under Section 9 with respect to that project would continue for a 5-year period, subject to the availability of appropriations for such purpose, in amounts not less than the amounts that would have been received without such transfer. The conference report does not contain the Senate provision.

Conforming amendment for HOPE II. The House amendment contained a provision that would provide that eligible property assisted by a homeownership implementation grant under HOPE II would not be subject to the requirements of section 203 of the 1978 Housing and Community Development Amendments applicable to the sale of projects either at foreclosure or after acquisition by the Secretary. The Senate bill was similar except that it would also exempt eligible property covered by a homeownership program from the Low-Income Housing Preservation and Resident Homeownership Act of 1990. The conference report contains the Senate provision.

Applicability. The House amendment contained a provision that would require that in accord with section 201(b)(2) of the 1937 United States Housing Act, the amendments made by this subtitle would also apply to public housing developed or operated pursuant to a contract between the HUD Secretary and an Indian Housing Authority. The Senate bill contained a similar provision except that nothing in this HOPE title would affect the Indian mutual housing program. The conference report contains the House provision.

TITLE V–HOUSING ASSISTANCE

Subtitle A–Public and Indian Housing

Preferences. The House amendment contained a provision that would increase from 10 to 30 the percentage of nonpreference families that a public housing agency may admit for occupancy as units become available. The Senate bill contained a similar provision except, for the non preference families, it would require the public housing agency to make units available in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities which may include: assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to educational and employment opportunities; assisting families who would have to pay more than 30 percent of their adjusted income for rent; avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies; or achieving other objectives of national housing policy as affirmed by Congress. The Senate provision also excluded from the preferences for five years any person that had previously been evicted for drug related criminal activity. The conference report also contains the Senate requirements for local preferences with an amendment to include as a permissible local preference the need to provide adequate housing for family unification purposes. These preferences were drawn from section 520 of the House amendment. The conference report contains the Senate provision on the exclusion for drug-related activities amended to change the exclusion from 5 years to 3 years and to provide the agency with discretion to waive such exclusion when family members that clearly were not involved in the drug related criminal activity and had no knowledge of such activity or when the circumstances leading to the eviction no longer exist. The conferees intend that the exclusions be applied so as to protect uninvolved, innocent family members from the illegal actions of another member of the family. Further, it is intended that the waiver for changed circumstances be used to protect innocent family members in cases of death, divorce or incarceration.

The House amendment contained a provision not included in the Senate bill that clarified that homeless shelters and transitional housing are considered substandard housing for purposes of assigning priorities for Section 8 and public housing assistance. The conference report contains the House provision.

Public Housing Agency Reform

Performance indicators for public housing agencies. The House amendment contained a provision that amended the 1937 Housing Act to require the Secretary to develop and publish standards to be used to assess the management performance of

public housing agencies. Such standards would enable the Secretary to evaluate the performance of public housing agencies in at least the following major areas of management operations: (1) operating expenses relative to revenues; (2) operating reserves relative to maximum allowable reserves; and (3) compliance of units with housing quality standards or an equivalent standard, and (4) the existence of a system for making necessary repairs or replacements. The Senate bill contained a similar provision except that indicators would be used to evaluate the performance of public housing agencies in all major areas of management operations. Specifically, the Senate provision listed indicators that would be required to be used by the Secretary: (1) the number and percentage of vacancies; (2) the amount and percentage of funds obligated to the PHA under Section 14 of the 1937 Housing Act which remain unexpended after 3 years; (3) the proportion of maintenance work orders outstanding; and (4) the percentage of units that an agency fails to inspect or ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments for large and small agencies). The conference report contains the Senate provision amended (1) to clarify that performance indicators and the procedures for designating troubled PHAs will be subject to notice and comment rulemaking and (2) that at least one indicator includes progress that a PHA has made within the past three years to reduce the period of time required to complete maintenance work orders. The Conferees believe that it is important for HUD to use objective measurements to evaluate PHA performance.

Designation of high performing agency. The House amendment contained a provision not included in the Senate bill that would require the Secretary to designate a public housing agency that meets the specified performance standards to be a high performing agency. The conference report does not contain the House provision but includes an amendment to authorize HUD to develop criteria, working with industry groups, to commend high performing PHAs. The Conferees support the attempt to provide meaningful reforms for the Nation's Public Housing Authorities as addressed in the bill. However, the Committee also recognizes that while "troubled" agencies must be subject to vigorous reform, not all agencies are troubled and many should be recognized for their accomplishments and high performance. The House amendment contained a requirement that the Secretary publish annually in the Federal Register lists of public housing agencies that have met the specified performance standards established in the legislation and have been designated "high performing" agencies. The Senate had no similar provision. The Conferees believes that HUD should develop some criteria by which it can recognize "high performing" agencies may be recognized for their efforts.

Sanction for failure of troubled PHA to meet targets. The House amendment contained a provision that would require the Secretary to enter into agreements with troubled PHAs to meet performance targets and setting forth incentives or sanctions for effective implementation of those targets, which may include such restrictions on the use of funds made available under this Act as the Secretary determines to be appropriate. The Senate bill contained a similar provision except it would expand restrictions on funds to include those made available under the Housing and Community Development Act of 1974. The conference report contains the Senate provision amended to delete the reference to the 1974 Act and to require HUD to include a description of the technical assistance that it will give to the PHA. The conferees emphasize their belief that cities need to be more involved in, and held accountable for, the performance of PHAs in their jurisdictions. The intention remains that the Secretary has the authority to use his discretion to enforce cities to monitor the performance of PHAs.

Sanction for substantial default by troubled PHAs in performance. The Senate bill contained a provision not included in the House amendment that would permit the Secretary, upon the occurrence of events or conditions that constituted a substantial default by a PHA with respect to the covenants or conditions to which the PHA is subject or the agreement entered into between the Secretary and the agency, (1) to solicit competitive bids from housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency; and (2) to petition for the appointment of a receiver (which may be a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposed and powers prescribed in this subsection. In any proceeding for the appointment of a receiver, upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with the **NationalAffordableHousingAct** and in accordance with such further terms and conditions as the court may provide. The court would have the power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary. The appointment of a receiver pursuant to this subsection could be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the PHA will thereafter be operated in accordance with the covenants and conditions to which the PHA is subject. The conference report contains the Senate provision. The conferees intend for HUD to use this authority to move aggressively to improve living conditions for tenants in severely troubled public housing.

Listing of high performing and troubled PHAs. The House amendment contained a provision not included in the Senate bill that would require the Secretary to provide annually each appropriate housing authority of each State and the chief executive officer of each locality which has a PHA within its jurisdiction with a listing of the high performance and troubled public housing agencies in the State. The conference report does not contain the House provision.

Reports. The Senate bill contains a provision not included in the House amendment that would require the Secretary to annually submit to the Congress a report identifying the public housing agencies that have been designated as troubled describing the agreements that have been entered into with such agencies under such paragraph, describing the status of progress under such agreements, and describing any action that has been taken in accordance with paragraph (3). The conference report contains the Senate provision with an amendment to require the report to describe the grounds on which any PHA was designated and continues to be designated as troubled and also requires a description of the status of PHAs that were designated as troubled for the purposes of the modernization program.

Requirement for PHA Training. The House amendment contained a provision not included in the Senate bill that would require each State, as a condition for PHAs within the State to receive assistance under this Act, to establish (not later than 2 years after the date of the enactment) and enforce standards for a course of study and certification of executive directors and other officers and members of local, regional, and State PHAs. The State would provide for completion of the course and certification before appointment to any position within a PHA within the State, and shall require any individuals holding such positions within any PHA on the date of the establishment of such course and provisions for certification to complete the course and acquire certification, within 1 year after such establishment. The conference report does not contain the House provision but is amended to require the Secretary, within one year of enactment of this Act, to report to Congress on the practicality and feasibility of establishing standards for the certification and training of executive directors and other officers and members of PHAs. If such a course of training is determined to be practical, the Secretary will develop, in coordination with industry groups, an appropriate training program.

Project-based accounting systems. The House amendment contains a provision that would require that contributions contracts provide for the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) on a project basis, which shall (1) require each public housing agency to publish an annual financial statement of all its operations, including the financial status of each individual housing project, and (2) the review of such reports by the applicable Board of Commissioners or other governing body with respect to such PHA and by the applicable State housing authority. The Senate bill contains a similar provision except does not contain requirements to publish annual financial statements or review of such reports by others. The conference report contains the Senate provision with an amendment to exempt PHAs not receiving operating subsidies from these requirements and to authorize the Secretary to allow PHAs which operate fewer than 250 units to apply the accounting requirement on an agency wide basis. The conferees want to encourage local Commissions to review the results. The Conferees are aware that in some instances of troubled agencies, there was a breakdown in communication between the agency itself and the Board of Commissioners which is required to oversee the operations of the agency and that in at least one instance commissioners to were unable to obtain copies of HUD's annual audit of the agency. The Committee recognizes that an integral part of agency oversight is the analysis of the operations of the agency by HUD through its annual audit. Therefore, the Committee directs the Secretary to ensure that a copy of an agencies' annual audit be made available to the Chairman of the Board of Commissioners of each agency.

Regulation. The House amendment contained a provision that would require the Secretary to adopt by regulation guidelines to implement the public housing agency reforms enumerated above. The Senate bill contained a similar provision but would not require adoption by regulation. The conference report contains the Senate provision amended to require notice and comment on rulemaking.

Reduction of operating subsidies. The Senate bill contained a provision not included in the House amendment that would permit the Secretary to reduce operating subsidies for public housing units that have been continuously vacant for 1 year or longer where such vacancies have been caused by factors within the control of the public housing agency. The conference report does not contain the Senate provision. The conferees intend that the elimination of this provision would not be construed to limit the Secretary's rulemaking authority in this area.

Report on Buffalo Municipal Housing Authority. The Senate bill contained a provision not included in the House amendment that within 180 days after the date of enactment, would require the Secretary to transmit to Congress a report on the operating and efficiency of the Buffalo Municipal Housing Authority ("the Authority"), using, among other criteria, the performance indicators set forth in the **NationalAffordableHousingAct**, and giving special attention to the Authority's desegregation program and to the vacancy rate. For purposes of the report the Secretary may specifically determine whether to: (A) petition for the appointment of a receiver for the Authority; or (B) reduce operating subsidies for the Authority. The conference report contains the Senate provision.

Criminal Activity in Public Housing

Eviction and termination. The House amendment contained a provision not included in the Senate bill that would expand circumstances where administrative grievance procedure will apply to cases of inaction. The conference report does not contain the House provision. There is no need for clarification that Section 6(k) guarantees tenants the right to have grievance hearings with respect to a public housing agency's failure to act because the Secretary is no longer taking the position that public housing tenants have no right to have grievance hearings about their public housing agency's failure to act.

The House amendment contained a provision that would limit a public housing agency's ability to bypass the current administrative lease and grievance procedure to those activities that threaten the health or safety of tenants or employees. In such cases the agency could use an expedited grievance procedure or bypass the administrative procedures if state court procedures would provide specified elements of due process. The House provision also required public housing authorities to provide relevant documents prior to any hearing or trial. Proposed rules implementing the section would be required to be published within 60 days of enactment and the existing due process waivers would not be valid after enactment. The Senate bill contained a similar provision but would allow bypass when a criminal activity affects health, safety, and welfare of tenants.

The Senate bill also contained a provision not included in the House amendment that would allow public housing agencies to bypass grievance procedure without regard to due process offered in court where eviction or termination is for "criminal activity, including drug related criminal activity, that adversely affects the health, safety, and welfare of public housing tenants" so long as the public housing agency notifies the tenant of the reasons for eviction or termination.

The conference report contains the House provision with an amendment (1) to allow public housing agencies to bypass the current administrative procedure in cases of eviction or termination involving criminal activity that threatens the health, safety and right to peaceful enjoyment of other tenants or employees of the public housing agency or in the case of drug related criminal activity on or near the premises and (2) to require the Secretary to establish the expedited grievance procedure through notice and comment rulemaking. This language is intended to reach criminal activity that seriously endangers other tenants or PHA employees, while preserving the grievance process for all other categories of evictions.

The amendment deleted the specified elements of due process set forth in the House amendment. Such elements will continue to be established by regulation and the deletion of the specified elements should not be construed as a determination by the conferees that such elements should not continue to be part of the regulatory definition of due process. The conference report does, however, prohibit the regulatory definition of due process from including a requirement for discovery. Instead, the conference report requires that the public housing agency must provide tenants a reasonable opportunity prior to the hearing or trial to examine any relevant documents, records, or regulations directly related to the eviction or termination. The elements of due process that would be required include all the protections specified in the statute for the grievance procedure which is being replaced, except for the right to examine documents prior to trial to prepare a defense, which will be directly granted by the federal statute.

The conferees also intend that the documents covered by this disclosure rule be ones the public housing agency would normally maintain in the tenant's file. The requirement that the public housing agency produce documents is not intended by the Committee to be construed as a broad discovery provision. However, public housing agencies should not be allowed to avoid their duty to disclose documents by maintaining or placing them in other files, transferring them to the custody of others or destroying them.

Final regulations implementing these regulations must be promulgated not later than 180 days after enactment. A conforming

amendment was also added to provide that any such waiver granted before the enactment date shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the enactment date. It is the conferees intent that when an individual state waiver is sought, the Secretary should notify affected tenants in advance and provide them with an opportunity to comment.

The committee also intends that the rights created by this amendment be enforceable under 42 U.S.C. Section 1983, the implied private right of action and third party beneficiary doctrines and the Administrative Procedure Act.

Restriction on reentry. The Senate bill contained a provision not included in the House amendment that amends the definition of family in the 1937 Housing Act to provide that any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity is not eligible for a preference under any provision of this paragraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary. The conference report does not contain the Senate provision.

Lease requirements. The Senate bill contained a provision not included in the House amendment that amends the prohibited activities under the lease to prohibit criminal activity that adversely affects the health, safety, and right to quiet enjoyment of the premises by other tenants and including drug-related criminal activity, that threatens the health or safety of, or right to quiet enjoyment of the premises by other tenants. The conference report contains the Senate provisions amended to read that each public housing agency shall utilize leases which provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, 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.

Notice to post office. The Senate bill contained a provision not contained in the House amendment that would require public housing agencies to notify the local post office about an evicted tenant, if the tenant is evicted for engaging in criminal activity including drug-related criminal activity. The conference report contains the Senate provision.

Public housing and Section 8 assistance regarding foster care children. The House amendment contained a provision not included in the Senate bill that would require agencies administering public housing or Section 8 assistance to coordinate with local child welfare agencies in providing units to: families whose children have been placed or could be placed in foster care or have children in foster care which have not been discharged due to housing conditions; and youth who have been discharged from foster care who cannot return to their family or extended family and for which adoption is not available. The conference report contains the House provision with an amendment changing "shall" to "may" regarding coordination requirements, and subjecting provision to preference rules.

The House amendment also contained a provision that would amend the Federal preference rules for housing placement in both the public housing and Section 8 programs to include families separated due to substandard housing or lack of housing and youth discharged from foster care who cannot return to their families and cannot be adopted. This provision was not included in the conference report as a separate Federal preference but instead as a permissible local preferences.

Public Housing Operating Subsidy

Authorization. The House amendment contained a provision that authorized for public housing operating subsidies, $2,145,780,000 for fiscal year 1991 and authorized in each fiscal year, such sums as may be necessary, to provide each public housing agency with all their eligible funds under the performance funding system without adjustments for estimated or unrealized savings. The Senate bill contained a provision that authorized for public housing operating subsidies, $1,865,000,000 for FY 1991, $1,940,100,000 for FY 1992, and $2,017,200,000 for FY 1993. The conference report contains an authorization of $2,000,000,000 for FY 1991 and $2,086,000,000 for FY 1992.

Services and coordinators as eligible cost. The House amendment contained a provision not included in the Senate bill that authorized annual contributions to PHAs to include projects with a sufficient number of frail elderly or handicapped residents, (1) the cost of a services coordinator within the project which is provided by a federal agency, public or private department or organization to enable frail elderly or handicapped residents to live independently and prevent placement in nursing homes or institutions; (2) not more than 15% of the expenses for providing services to project residents which may

include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services and health-related services. Exempts this provision from the performance funding system established in Section 9(a)(3) of the United States Housing Act of 1937 and defines frail elderly as the meaning given under Sec. 202(d) of the 1959 Housing Act. The conference report contains the House provision with an amendment which restricts services under this section to those not covered under Congregate Housing Services program. The conferees intend that the cost of a services coordinator is an eligible cost to be paid out of public housing operating subsidies but is not required and is not a separate authorization.

Litigation by PHAs. The House amendment contained a provision not included in the Senate bill that allowed PHAs to include as an allowable operating cost the unreimbursed cost of any civil action commenced by a public housing agency against the Federal Government to ensure proper implementation of any Federal law relating to public housing. The House provision also would disapprove the HUD rule entitled "Litigation Reporting and Related Requirements for Certain Recipients of HUD Assistance" and published in the Federal Register of October 27, 1988 (53 Fed. Reg. 43610 et seq.). The Secretary of HUD may not publish a final rule based on such rule and may not otherwise implement the provisions of such rule. The conference report does not contain the House provision.

Performance funding system. The Senate bill contains a provision that is not included in the House amendment that would require HUD, in determining the PFS utility subsidy, to include a cooling degree day adjustment factor and requires that the method to include this factor shall be identical to the method included for the heating degree adjustment factor. The conference report contains the Senate provision.

Formula Allocation for Modernization Funding for Public and Indian Housing

Emergency or natural disaster set-aside. The House amendment contained a provision not included in the Senate bill that would amend Section 14(k) of the United States Housing Act of 1937 to provide from amounts approved in appropriation Acts each fiscal year that the Secretary shall reserve not more than $75 million (including unused amounts reserved during previous fiscal years), for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by agencies from future allocations of assistance where available. The conference report contains the House provision with an amendment to make these amendments effective in Fiscal Year 1992.

Allocation formula. The House amendment contained a provision not included in the Senate bill that would require the Secretary to allocate the remaining funds, pursuant to a formula contained in a regulation to be prescribed by the Secretary. Such formula is to measure the relative needs of public housing agencies. The conference report contains the House provision.

Backlog needs. The House amendment contained a provision not included in the Senate bill that would require the Secretary to allocate half of the amount allocated under the formula based on the relative backlog needs of public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units determined either from the most recently available, statistically reliable data regarding the (1) backlog of needed repairs and replacements of existing physical systems in public housing projects, (2) items that must be added to projects to meet the modernization standards of the Secretary, and (3) items that are necessary or highly desirable for the long-term viability of a project; or if the data are not statistically reliable on the basis of estimates of the backlog as defined above and objectively measurable data on public housing agency, community, and project characteristics, including the average number of bedrooms in the units in a project; the proportion of units in a project for very large families; the extent to which units for families are in high-rise elevator projects; the age of the projects; in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms; the cost of rehabilitating property in the area; for family projects, the extent of population decline in the locality determined on the basis of the 1970 and 1980 censuses; and other factors the Secretary determines are appropriate. The conference report contains the House provision with an amendment to require HUD to subject new or amended criteria to notice and comment rulemaking.

Past modernization funding. The House amendment contained a provision not included in the Senate bill that would require that the formula also take into account amounts previously made available by the Secretary for modernization and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary. The conference report contains the House provision.

Accrual needs. The House amendment contained a provision not included in the Senate bill that would require the Secretary to allocate the other half of the amount allocated under the formula based on the relative accrued needs of public housing agencies with 500 or more units and the aggregate of agencies with fewer than 500 units for the categories of modernization need determined either where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs or where the estimates are not statistically reliable on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics, including the average number of bedrooms of the units in a project; the proportion of units in a project for very large families; the age of the projects; the extent to which the buildings in projects of an agency average fewer than 5 units; the cost of rehabilitating property in the area; the total number of units of each agency; and other factors the Secretary determines are appropriate. The conference report contains the House provision with an amendment to subject new or amended criteria to notice and comment rulemaking.

Determination of the number of units. The House amendment contained a provision not included in the Senate bill that would require the Secretary, in determining how many units an agency owns or operates and the relative modernization needs of agencies, to count each existing unit under the annual contributions contract, with the exception of an existing unit under the turnkey III and the mutual help programs which may be counted as less than one unit. Once an agency qualifies to receive a formula grant it may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units. The conference report contains the House provision.

Impact of demolition disposition on the formula. The House amendment contained a provision not included in the Senate bill that would require the Secretary, where an existing unit under a contract is demolished or disposed of, to not adjust the amount the agency receives under the formula unless more than one percent of the units is affected on a cumulative basis. Whereas more than one percent of the units is demolished or disposed of, the Secretary would be required to reduce the formula amount accordingly for the agency over a 3-year period. The conference report contains the House provision.

Data reliability. The House amendment contained a provision not included in the Senate bill that would provide the Secretary the discretion to determine whether the data used to determine the allocation are statistically reliable. The conference report contains the House provision.

Application of formula. The House amendment contained a provision that would stipulate that formula allocation for agencies with fewer than 500 units would be allocated as special purpose modernization. The Senate bill contained a provision that would stipulate that formula allocation for PHAs with 500 or more units would be allocated in accordance with the provisions of the section and current law as amended. The conference report contains the House provision.

Troubled PHA allocation. The House amendment contained a provision not included in the Senate bill that, in the case of an agency that the Secretary designated as a troubled agency on or before June 1, 1990, and that is still designated as a troubled agency on the date amounts are allocated under the formula for FY 1991, the Secretary would limit the total amount of funding to the average amount the agency received during fiscal years 1988, 1989, and 1990, for modernization activities and for major reconstruction of obsolete projects, adjusted to take into account changes in the cost of rehabilitating property, plus 25% of the differences between the average amount and the amount that would be allocated to the agency if it were not designated a troubled agency. The conference report contains the House provision with an amendment to (1) change the application of this subsection to Fiscal Year 1992; (2) alter the manner in which agencies are designated as troubled by striking the reference to the June 1, 1990 list and, instead, covering agencies that the Secretary designates as troubled for purpose of the modernization program pursuant to regulations published through notice-and-comment rulemaking; (3) alter the funding that a troubled PHA would receive by substituting “1989, 1990 and 1991” for “1988, 1989, and 1990”; and (4) require the Secretary to establish a special rule for PHAs which are not found to be troubled in the initial designation, but become troubled in subsequent years. The conferees intend that the Secretary will have the discretion to determine the percentage amount of funding that is available for such subsequently troubled PHAs.

Added allocation for troubled PHA by request. The House amendment contained a provision not included in the Senate bill that would permit the Secretary to increase a troubled agency’s allocation up to an additional 25% of the difference between what the troubled agency actually receives and what it would have received if it was not troubled. Such additional increase shall be based on the agency’s progress toward meeting performance standards. In the case of such a request, the Secretary shall render a decision within 75 days of receipt of the request. The conference report contains the House provision with an

amendment to allow an increase to the full amount the agency is entitled.

Reallocation of troubled PHAs' formula allocation. The House amendment contained a provision not included in the Senate bill that would state that amounts not available to troubled PHAs would be reallocated to other public housing agencies that own or operate 500 or more units, based on their relative needs. For Indian housing authorities, the amounts would be reallocated to other Indian housing authorities. The relative needs of agencies would be determined using the formula. The conference report contains the House provision with an amendment that requires the Secretary to establish a credit system that will allow a troubled PHA to accumulate withheld funds for three years and to receive repayment of withheld funds if such PHA graduates from troubled status. Repayment of the withheld funds would be reduced over a four year period after the accumulation period by the following percentages: First year, 10 percent reduction; second year, an additional 20 percent reduction; third year, an additional 30 percent reduction; and the fourth year, an additional 40 percent reduction. The conference report also provides that once an agency has graduated from troubled status, the agency can reclaim its outstanding credited amounts on an annual basis in amounts to be determined by the Secretary. The aggregate of such credit payments for all agencies cannot in any one year exceed 5 percent of the amount allocated for formula allocation.

Timing for reallocation. The House amendment contained a provision not included in the Senate bill that stated that any amounts subject to reallocation either from a troubled PHA or recaptured for cause would be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 500 or more units, based on their relative needs. The relative needs of agencies would be measured by the formula. The conference report contains the House provision.

Grounds for appeal. The House amendment contained a provision not included in the Senate bill that would permit a public housing agency to appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used in the formula were not correct. The conference report contains the House provision.

Eligible activities. The House amendment contained a provision not included in the Senate bill that would permit amounts allocated to a public housing agency by formula to be used for any eligible modernization activity, notwithstanding the formula factors. The conference report contains the House provision.

Modernization for PHAs with fewer than 500 units. The House amendment contained a provision not included in the Senate bill that would amend Section 14(d)(4) by deleting the requirement for replacement needs and planning estimate, operating budget, and financial resources estimate for public housing agencies with fewer than 500 units. The conference report contains the House provision.

Special purpose modernization. The House amendment contained a provision not included in the Senate bill that would limit special purpose modernization or emergency needs funding especially related to fire safety standards to public housing agencies with fewer than 500 units. The conference report contains the House provision.

Special purpose management improvement funds. The House amendment contained a provision not included in the Senate bill that would provide for special purpose management modernization improvements which are not otherwise eligible for PHAs with fewer than 500 units (including Section 8 projects). The conference report contains the House provision.

250 units threshold. The House amendment contained a provision not included in the Senate bill that would establish a 250-unit threshold for modernization funds beginning in FY 1992, except that once a housing authority qualifies for assistance, it may continue to receive a formula grant if it owns or operates at least 200 units. The conference report contains the House provision.

Inapplicability to Indian housing. The House amendment contained a provision not included in the Senate bill that stated that, notwithstanding the provisions of this subtitle, the formula allocation would not apply to Indian housing authorities until October 1, 1991. The conference report does not contain the provision. The conferees believe that this provision is not necessary as the entire provision will be implemented starting in Fiscal Year 1992.

Transition rule. The House amendment contained a provision not included in the Senate bill that stated that any amount that the Secretary has obligated to a public housing agency in Section 14 of this Act, other than under a comprehensive plan,

would be required to be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency and approved by the Secretary, as the agency determines to be appropriate. The conference report contains the House provision.

Regulations. The House amendment contained a provision not included in the Senate bill that would require the Secretary to publish a proposed rule to implement the formula allocation amendments and shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing such rule. The proposed rule shall be published not later than the expiration of the 60-day period beginning on the date of the enactment of this Act. The conference report contains the House provision with an amendment to require the Secretary to publish the proposed allocation formula in a proposed rule pursuant to notice and comment rulemaking. The proposed rule would need to outline: (1) the analytic basis for the formula; (2) the weights assigned to the statutory criteria; (3) deductions from the formula share for prior years' CIAP or MROP funds; and (4) any other pertinent information. The Secretary could, at his discretion, publish alternative formulas, identifying the different weights which were used in calculating such alternative formulas, and explaining what policy objectives might be achieved.

Reports. The House amendment contained a provision not included in the Senate bill that would require an independent evaluation to be presented to Congress within 3 years after the initial allocation of assistance by formula. The conference report contains the House provision with conforming amendments to be made to the PHA reform provisions to require that HUD annual reports outline the status of PHAs designated as troubled for purposes of the modernization program amount and specify the amount of credited funds that have been accumulated by such troubled PHAs.

Hope for Vacant Public Housing Units

The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to make available financial assistance in the form of grants to public housing agencies for the purpose of improving the physical condition of existing vacant units in low-rent public housing projects for use as residences.

Under the House provision, grants would have been made available for units in low-rent housing projects that are owned by public housing agencies; are operated as rental housing projects and assisted under maintenance and operating contributions contracts; are not assisted under Section 8; are vacant at the time grants under this section are received; and meet such other requirements as the Secretary may prescribe. Both large (more than 500 units) and small public housing authorities would have been required to explain the extent of, and reasons for, vacancies and develop a plan of action to eliminate unnecessary vacancies.

The conference report contains the House provision amended as follows:

The conference report establishes within section 14 of the 1937 Housing Act a program designed to eliminate all excess vacancies within 5 years. The initiative would apply to agencies with twice the average vacancy rate or ones designated as troubled.

Such agencies would be required to develop and submit a vacancy reduction plan for units owned or operated by the agency. The plan would identify vacant public housing units within the agency's inventory, explain the reasons for such vacancies and outline the agency's agenda for addressing such vacancies within the next 5 years. An agency would identify the extent to which such vacancies are currently being addressed through existing programs (comprehensive modernization, major reconstruction) or demolition/disposition actions within the 5-year period and any vacancies not currently funded under such programs and not likely to be so funded or approved within 3 years. Finally, the agency would identify any other vacancies.

A team of HUD and PHA experts would be available to visit each designated PHA to independently assess the reasons for the agency's high vacancy rate. The team would consider any management deficiencies which might be contributing to the vacancy problem and would recommend a series of management improvements to cure such deficiencies. Such recommendations would be included in an agency's vacancy reduction plan.

HUD Resources. The conference report authorizes $105,000,000 in fiscal year 1991 and $220,000,000 in fiscal year 1992 for the costs of rehabilitating vacant public housing units, implementing management improvements, and undertaking any other

activities identified in the plan.

Income eligibility for public housing. The House amendment contained a provision not included in the Senate bill that would amend the tenant income restrictions of Section 16(b) of the United States Housing Act of 1937 to allow PHAs to increase from 5% to 25% the number of units that can be leased by lower income families other than very low income families, but only if the public housing agency certifies to the Secretary that not more than 25% of dwelling units occupied at the time of certification are leased by such lower income families. The conference report contains the House provision with an amendment that amends section 16(b) to raise from 5 percent to 15 percent the number low income (other than very low income) that can be placed in dwelling units that become available under contributions contracts or assistance payments after 1981 and by adding a provision that limits the number of low income other than very low income persons in any project to 25 percent. This last restriction does not apply to any project that exceeds this limit prior to the enactment of this act.

Disposition of scattered-site public housing. The House amendment contained a provision not included in the Senate bill that would amend the Section 18 disposition and demolition provisions of the United States Housing Act of 1937 to provide that in the case of scattered-site housing of a public housing agency, debt repayment would be required to be in an amount that bears the same ratio to the total of obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition. This provision would be applicable to any scattered-site housing disposed of after the date of enactment. The conference report contains the House provision.

Replacement Housing

Report. The Senate bill contained a provision not included in the House amendment that would require the Secretary to transmit to Congress a report that outlines the commitments the Secretary made during the preceding year to fund plans for replacement housing and specifies the budget authority necessary to carry out the commitments. The conference report contains the Senate provision.

1 for 2 replacement. The Senate bill contained a provision not included in the House amendment that would amend Section 18(b) to require the public housing agency to develop a plan to provide one decent, safe, sanitary, and affordable dwelling unit for every two public housing units to be demolished or disposed of where the project or portion of the project to be demolished or disposed of has had a vacancy rate exceeding 35% for the preceding five years; the project is located within a jurisdiction with a vacancy rate in excess of 10% as documented in the most recent housing affordability strategy; and the project is located in jurisdiction which is severely economically distressed. The provision would require the PHA to hold a public hearing, which has been announced, at a time and location which is convenient for those residents which may be affected by the demolition/disposition and with accommodation for persons with disabilities.

The conference report does not contain the Senate provision but contains an amendment to provide the following: notwithstanding the provisions of Section 18(b)(3)(A) of the United States Housing Act of 1937, the Secretary may allow, on a pilot project basis, the use of 5-year Section 8 Existing Certificates as replacement for public housing units proposed for demolition or disposition in the City of St. Louis, Missouri. All demolition and disposition applications must meet the other requirements of existing law, including the one-for-one replacement provision. The authority under this provision expires on September 30, 1992.

Public housing resident management. The House amendment contained a provision that would authorize $5,000,000 for FY 1991 for public housing resident management programs under the CIAP. The Senate bill contained a provision that would authorize $2,500,000 for each of FY 1991, FY 1992, and FY 1993 for public housing resident management under CIAP. The conference report contains the House provision with an amendment to authorize $5,000,000 for FY 1992 as well.

Public housing family investment centers

Purpose. The House amendment contained a provision establishing the purpose of this subsection as to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by (A) developing facilities in or near public housing for training and support services offered under local self-sufficiency programs under this section; (B) mobilizing public and private resources to expand and improve the delivery

of such services; and (C) providing funding for such essential training and support services that cannot otherwise be funded. The Senate bill contained a similar provision except qualifies funding as transitional funding and adds a fourth purpose which provides better access to educational and employment opportunities by improving public housing management's capacity to assess service needs and coordinate services. The conference report contains the House provision with an amendment incorporating the fourth purpose in the Senate bill. The conference report establishes the name of the program as Family Investment Centers and that it is a stand alone amendment to the 1937 Housing Act, not part of the Family self-sufficiency program or in the CIAP provisions.

Grant authority. The House amendment contained a provision authorizing the Secretary to make grants to public housing agencies carrying out self-sufficiency programs to adapt public housing to help families participating in the program to gain access to educational and job opportunities. The Senate bill contained a provision that would amend Section 14 of the 1937 Act (CIAP) to provide grants. The Secretary could reserve not more than 5 percent of the amounts available in each fiscal year to supplement grants awarded to public housing agencies if increases are required to maintain adequate levels of services to eligible residents. The conference report contains the House provision with an amendment removing linkage to the self-sufficiency program and adding a requirement that grants will only be available to PHAs that can demonstrate that sufficient supportive services will be available and adds Senate provisions on 5% set-aside. By removing the linkage to self-sufficiency, the conferees do not intend that this program could not be used in conjunction with the self-sufficiency program.

Grant Uses. The House amendment contained a provision that permits grant amounts to be used to renovate or convert vacant public housing units to create common areas, renovate existing common areas, and renovate facilities near public housing projects in order to accommodate the provision of supportive services. Not more than 15% of the grant amounts can be used to provide such services. The Senate bill contained a similar provision except that the funding of services would be transitional if the PHA demonstrates to the Secretary that (I) the qualifying services are appropriate; (II) the public housing agency has tried to find other funding resources; and (III) long-term funding for the qualifying services will be available from other services, and the funding can cover the costs of employing service coordinators. The conference report contains the House provision with an amendment to remove linkage to self-sufficiency program, to add qualification that supportive services funding is available only when the supportive services are appropriate to improve the access of eligible residents to employment and educational opportunities, and the public housing agency has made diligent efforts to obtain the services elsewhere and to add as permissible use the employment of a service coordinator as provided in the Senate bill minus references to families with children under 10 years of age.

Allocation. The House amendment contained a provision requiring grant amounts to be allocated among the public housing agencies carrying out self-sufficiency programs that have submitted applications and have been selected by the Secretary. The Senate bill contained a similar provision except that it would include any PHA, not just those in Self-Sufficiency or Operation Bootstrap programs. The conference report contains the Senate provision.

Applications. The House amendment contained a provision requiring that applications for assistance contain: (A) a description of the supportive services under the local self-sufficiency program that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities that involve substantial rehabilitation); (B) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of assisted activities; (C) a description of the public and private resources that are expected to be made available to provide the activities and services under the local program, which shall include evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations); (D) certification from the appropriate State or local agency (as determined by the Secretary) that (i) the local self-sufficiency program is well designed to provide resident families better access to educational and employment opportunities; and (ii) there is a reasonable likelihood that services under the program will be funded or provided for the entire period specified under subparagraph (A); (E) a description of assistance for which the public housing agency is applying under this subsection; (F) a copy of the action plan for the local self-sufficiency program of the public housing agency; and (G) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this subsection. The Senate bill contained a similar provision except there are no references to self-sufficiency. The conference report contains the House provision with an amendment deleting references to the self-sufficiency program.

Selection. The House amendment contained a provision requiring the Secretary to establish selection criteria for grants under this subsection, which shall take into account: (A) the ability of the public housing agency or a designated service provider to carry out the local self-sufficiency program; (B) the need for such program in the public housing project; (C) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of services under the program; (D) the extent to which the public housing agency has demonstrated that services under the program will be provided for the required period; (E) the extent to which the public housing agency has a good record of maintaining and operating public housing; and (F) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this subsection are used effectively. The Senate bill contained a similar provision except did not include any references to self-sufficiency. The conference report contains the House provision with an amendment to delete any references to self-sufficiency.

Grant requirements. The House amendment contained a provision not included in the Senate bill that would require the Secretary to ensure that each public housing agency that receives a grant under this subsection has the capacity, in the determination of the Secretary, to (i) carry out the local self-sufficiency program under this section; and (ii) seek, on a continuous basis, new sources of assistance to ensure long-term funding for supportive services. The provision would permit public housing agencies to use amounts received from grants under this subsection to carry out the requirements of this subsection, and the Secretary could permit public housing agencies to use existing sources of funds for such purposes. The conference report does not contain the House provision. The conference report contains an authorization of $25,000,000 in fiscal year 1991 and $26,100,000 in fiscal year 1992.

HUD reports. The House amendment contained a provision requiring the Secretary to submit to the Congress annually, as a part of the report of the Secretary under Section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this subsection in such fiscal year. Such report would summarize the progress reports submitted pursuant to subparagraph (A). The Senate bill contained a similar provision except the Secretary would be required to submit an annual report within 120 days after the end of each fiscal year. The conference report contains the House provision.

Eligibility of Indian housing for CIAP. The House amendment contained a provision that would allow Indian housing projects to receive assistance under CIAP. Any assistance provided would have to be in the form of a single grant for each project. The Senate bill contained a similar provision but contained no requirement for single grants. The conference report contains the Senate provision with an amendment to include a requirement for a single grant for each project.

Public housing early childhood development grants. The House amendment contained a provision not included in the Senate bill that would establish public housing early childhood development grants.

The House provision would authorize $4,922,500, in FY 1990 funded out of the CDBG funding level and $15 million in FY 1991 out of public housing development funds for the Public Housing Early Childhood Development Grants program. The House provision would amend the current “Public Housing Child Care Program” authorized under Section 222 of the 1983 HURRA Act and rename it as the “Public Housing Early Childhood Development Grants Program”. The House provision would require that program grants be in amounts sufficient to cover a significant percentage of the renovation costs or operating expenses of early childhood development centers. The House provision would require that program grants be made for a 3-year period and distributed to recipients over a period determined by HUD.

The conference report contains the House provision with an amendment to include the name change of the program but would not include other House provisions and authorizes $15,000,000 in FY 1991 out of public housing development funds and $15,645,000 in FY 1992.

Indian public housing early childhood development demonstration program

The House amendment contained a provision not included in the Senate bill to establish an Indian public housing early childhood development demonstration program.

From amounts appropriated under Section 5(c)(7)(B) of the United States Housing Act of 1937 for Indian public housing grants in FY 1991, the Secretary would be required to use $5,000,000 for carrying out an early childhood development

demonstration program in Indian public housing. The Secretary would make grants to nonprofit organizations for providing early childhood development services in or near housing owned or operated by Indian PHAs. The House provision would require the Secretary to carry out the demonstration program in the same manner as the Public Housing Early Childhood Demonstration Program. The House provision would require tribal and geographic diversity in the implementation of the demonstration. Within 3 years of the enactment of this Act, the Secretary would be required to prepare and submit to the Congress a detailed evaluation report of the demonstration program.

The report would have to include any recommendations of the Secretary with respect to the establishment of a permanent early childhood development program for Indian housing authorities. The conference report contains the House provision.

Public housing rent waiver for police officers. The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to permit PHAs to allow police officers and other security personnel to live in public housing units. The Secretary could waive income eligibility limitations and rent requirements and could authorize the PHAs to set rent requirements and other terms and conditions of occupancy for units for such officers and security personnel, if the Secretary determined that there would be increased security for public housing tenants, limited loss of income to the public housing authority, and no significant reduction of units for eligible families. The conference report contains the House provision with an amendment to require PHAs to develop, and HUD to approve, a plan before police officers who are above the eligible income limits are allowed to live in the units.

Public housing youth sports programs. The House amendment contained a provision not included in the Senate bill that would require HUD to use 5% of the funds from the public housing drug elimination grants program in each fiscal year to establish and carry out youth sports programs in public housing projects with substantial drug problems.

The House amendment would authorize program grants to states, local governments, local park and recreation districts and agencies, public housing agencies, nonprofit organizations providing youth sports services programs, and Indian tribes.

The House amendment would require grants to be made only to youth sports programs which are located on public housing sites that HUD has determined have a substantial problem regarding the use or sale of illegal drugs. The House amendment would also require youth sports programs to be designed and organized so that the program (1) primarily serves youths from the assisted project, (2) provides positive sports activities, cultural, recreational or other activities, (3) operates in conjunction with an organized program or plan designed to eliminate drugs in the project. The House amendment would authorize grant funds to be used to: (1) acquire, construct, or rehabilitate community centers, parks or playgrounds; (2) redesign or modify public spaces in public housing projects; and (3) provide public services including program staff.

The conference report contains the House provisions on the public housing youth sports program.

Public housing one-stop perinatal services demonstration

The House amendment contained a provision not included in the Senate bill that authorizes such sums as may be necessary for FY 1991 for a HUD demonstration program to demonstrate the effectiveness of providing grants to public housing agencies which make one-stop perinatal services programs available for pregnant women in public housing. HUD would be required to consult with HHS and other appropriate federal agencies. The conference report contains the House provision with an amendment to require the Secretary to conduct demonstrations in no more than 10 public housing projects.

Public housing mixed income new communities strategy demonstration. The House amendment contained a provision not included in the Senate bill that would require the Secretary to establish a demonstration program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socio-economically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities. Housing units provided under the demonstration program would be required to be accompanied by a comprehensive program of services and incentives. The conference report contains the House provision.

The House provision would require HUD to carry out the demonstration program in housing administered by the Housing Authority of the City of Chicago, in the State of Illinois. HUD would be allowed to carry out the demonstration program in

no more than 3 other public housing agencies. No more than 15% of the total number of public housing units administered by each participating public housing agency could be used in the demonstration. Tenants would be protected from involuntarily relocation or displacement under the demonstration program.

The House provision would allow PHAs to utilize Section 9 operating subsidies in privately owned newly constructed or rehabilitated housing for the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing. Such units would have to be reserved for use for occupancy by very low-income families. Operating subsidy amounts could be provided for a unit of housing only after the execution of a lease between the owner of the housing and a qualifying tenant for 1 corresponding public housing unit.

Rental terms. Residence in units acquired by the PHA under the demonstration would be limited to very low-income families that reside, or have been offered a unit, in public housing and that enter into a contract participation in the demonstration. Rent for each unit would be an amount equal to 30% of the adjusted income of the resident family except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under Section 3(a)(2)(A) of such Act.

Income mix. The number of the units in each privately developed housing project that could be leased by a public housing agency would be limited to not more than 25% of the total. The amount of operating subsidy used in the privately owned projects would have to provide the same number of units as that amount of subsidy would have provided in public housing.

Assistance from other entities. The House provision would permit PHAs to seek the cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this demonstration, including (A) donations of land and write-downs and discounts on land by local governments; (B) abatement of real estate taxes for specified periods by local, county, or State governments; (C) assignment of community development block grant funds and loan guarantees made available under Title I of the Housing and Community Development Act of 1974; (D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders; (E) low income housing tax credits from State and local governments; and (F) mortgage revenue bonds from State or local governments.

Determination of location and number of units. The House provision would require that PHAs work with the local government to determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program and the number of units to be developed annually. It would limit the total number of newly constructed or rehabilitated units for PHAs with not more than 5,000 public housing units, to 15% of the number of units administered by the agency; for PHAs with more than 5,000 but not more than 25,000 units, to 10% of the number of units; and for PHAs with more than 25,000 units, to 4% of the number of units.

Existing public housing. To facilitate the establishment of socio-economically mixed communities within existing public housing developments, the House provision would require the Secretary to authorize PHAs to lease units in existing public housing projects, to lower income families who are not very low-income families, notwithstanding the income eligibility provisions of the 1937 Housing Act.

Except as provided below, not more than 25% of the units in each public housing project in the demonstration program could be occupied by lower income families who are not very low-income families, except that if a public housing agency has a special need, the Secretary could increase the percent of lower income families to not more than 50% in a public housing project in the demonstration program. The remainder of the units would be occupied by very low-income families. Such special need could include the need to ensure the successful revitalization of troubled public housing through establishing a socio-economically mixed resident population.

The rent charged any family occupying an existing public housing unit in this demonstration could not exceed the ceiling rent level normally determined by the public housing agency. A participating public housing agency would enter into a lease with each family occupying a public housing unit in the demonstration for a term of 1 year, renewable upon expiration for a period not to exceed 7 years. A public housing agency could extend the period.

A participating public housing agency would be required to enter into a contract with each family in the demonstration living in the privately developed housing leased to the agency. Each family in the demonstration would have to meet the criteria

established below. The contract would be made part of the lease, would set forth the provisions of the demonstration program, and would specify the resources to be made available to the participating family and the responsibilities of the participating family.

Requires each PHA to establish relevant criteria for participation of families in the demonstration program, including the status and history of employment of family members; enrollment of the children in the family in an educational program; family's maintenance history; ability of adult family members to complete training for long-term employment; the existence and seriousness of any criminal records of family members; and the status and history of substance abuse of family members.

Continued residency of families in housing would require compliance with standards established by the participating public housing agency, including all members of the family remaining drug-free; no member of the family engaging in any criminal activity; each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent; and family members participating in the support services and counseling.

The public housing agency would be required to ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation. The public housing agency would provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities, including remedial education; education for completion of high school; job training and preparation; child care; substance abuse treatment and counseling; training in homemaking skills and parenting; family counseling; and financial counseling services emphasizing planning for homeownership.

Economic advancement of participating families

Employment. The head of the family would be required to be employed on a full-time basis, and requires the public housing agency to ensure the provision of employment counseling.

Rent increases. For the first year of participation rent could not be increased if earned income increases until such earned income exceeds 80% of the median family income for the area.

Escrow savings accounts. Each participating public housing agency would be required to establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name. Requires the PHA to deposit in the account a percentage of the monthly rent charged the family, which percentage would be established in the contract of participation and any rent increases charged because of increases in the earned income of the family.

A participating family could withdraw amounts in the family's escrow account only upon successfully completing the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the PHA. A participating family that has committed violations referred to below would forfeit access to the escrow account.

Treatment of increased income. Any increase in the earned income of a participating family could not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80% of the median income of the area.

Conclusion of participation, 7-year term. A participating family would be required to terminate residency not later than 7 years after initial occupancy. The PHA would be required to extend the period for any family that requests extension of the period because the family is not prepared to own a home elsewhere or to secure any other form of private housing; or for other good cause.

If a participating family is unable to successfully fulfill the requirements of the demonstration, the PHA would be required to offer the family a comparable public housing unit in a PHA owned project without regard to Federal preferences or Section 8 assistance subject to appropriations and notwithstanding any Federal preferences, unless the family has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or has been exempted from participation for other good cause.

Public housing advisory board. The Senate bill contained a provision that was not included in the House amendment that

would authorize the creation of a Public Housing Advisory Board to provide advice to the Assistant Secretary for Public and Indian Housing with respect to the formulation of general policies and significant regulations governing public housing. The conference report does not contain the Senate provision.

Energy efficiency demonstration

Establishment. The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to establish a demonstration program to encourage the use of private energy service companies in 5 public housing agencies in 5 public housing projects in order to demonstrate the opportunities for energy cost reduction. The Senate bill would require the Secretary, not later than 90 days after enactment of this Act, to establish selection criteria for this demonstration after consultation with representatives of public housing agencies and energy organizations. The conference report contains the Senate provision.

Report. The Senate bill contained a provision that was not included in the House amendment that would, as soon as practicable following one year after the date of enactment of this Act, require the Secretary to submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration and would require the Secretary to disseminate such report, to the extent practicable, to other public housing agencies. The conference report contains the Senate provision.

Funding. The Senate bill contained a provision that was not included in the House amendment that would provide that of the total amount appropriated for HUD research and development, $500,000 will be set aside for Fiscal Year 1991. The conference report does not contain the Senate provision.

Study of public housing funding system

The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to carry out a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. The Secretary would be required to compare and contrast existing methods of funding in public housing with those used by the Department in housing assisted under Section 8 of the United States Housing Act of 1937. In preparing the study, the Secretary would, in particular, review the results of the study entitled “Alternative Operating Subsidies Systems for the Public Housing Program” released by the Department’s Office of Policy, Development and Research in May, 1982 and update such study as may be necessary. The Secretary would be required to report to the authorizing committees of Congress within 12 months after the enactment of this Act detailing the findings of the study. The conference report contains the Senate provision.

Study of prospective payment system for public housing. The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to assess one or more revised methods of providing Federal housing assistance through local PHAs. In analyzing such alternatives, the Secretary would examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA’s on behalf of low income public housing tenants. The Secretary would assess, within the capitated funding alternative, means of (a) providing for tenant participation in the release of such capitated payments to PHA’s; (b) providing financial incentives for PHA overall performance and efficiency; (c) designating certain PHA’s as distressed and eligible for special Federal assistance; (d) differential treatment of PHA’s based on differences in local population demographics, rental housing markets, and other pertinent factors, and (e) calculating annual inflation-based increases in capitated Federal payments. Such report would be made to the authorizing committees of Congress within 12 months after the date of enactment of this Act. The conference report does not contain the House provision.

Rental rehabilitation grants. The House amendment contained a provision that was not included in the Senate bill that would allow for the coordination between State funds and federal assistance under Section 17 of the 1937 Act in areas with rent control. The conference report does not contain the House provision.

The Senate bill contained a provision that was not included in the House amendment that would prohibit any new grants or

loans from being made under the Sec. 17 Rental Rehabilitation program, after October 1, 1990, except as authorized for a transitional Rental Rehabilitation program in the HOME program in the Senate bill. The House provision would authorize $133,000,000 in FY 1991 for the Rental Rehabilitation Grant program. The conference report contains the Senate provision and has included this in the HOME program in the conference report.

GAO study of alternatives in public housing. The conference report contains a provision that requires the Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program. The study will include an analysis and evalution of different methods of financing and structuring a program to develop public housing and of coordinating such a program with local housing strategies and an evaluation of the effectiveness of developing public housing units by coordinating the low-income housing tax credit program with the development of public housing.

Applicability to Indian housing. The House amendment contained a provision that was not included in the Senate bill that would apply the provisions contained in Subtitle A–1937 Housing Act programs to Indian public housing authorities (IHA's) except it does not apply to Section 504 Public Housing Agency Reform and Section 508 Income Eligibility for Public Housing to Indian public housing authorities. The conference report contains the House provision.

Subtitle B–Low-Income Rental Assistance

Designation of Certificate and Voucher programs. The Senate bill contained a provision not included in the House amendment that would amend 8(b) to entitle the subsection providing for Section 8 certificates "Rental Certificates" and amend 8(o) that provides for Section 8 vouchers to entitle it "Rental Vouchers". The conference report contains the Senate provision with an amendment to entitle section 8(b) "Rental Certificates and Other Existing Housing Programs".

Drug-related rent adjustment. The Senate bill contained a provision not included in the House amendment that would permit adjustments in contract rents under Section 8 where the Secretary determines that an assisted project 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. Such adjustments could not exceed the existing fair market rents established for the areas. The conference report contains the Senate provision with an amendment to limit rent adjustments to 120 percent of project rents.

Tenant rent contributions under Section 8 certificate program. The Senate bill contained a provision not included in the House amendment that would allow tenants receiving tenant based assistance under Section 8 of the 1937 Housing Act to pay more than 30% of income for rent if the family notifies the local PHA of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area, and such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses. No more than 10% of a PHA's annual allocation of incremental rental assistance could be used to approve such excess rentals. The Secretary would submit a report to Congress that identifies the PHA's that have made such excess rentals and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports. The conference report contains the Senate provisions but includes an amendment to delineate types of expenses to be considered by PHA in determining what is reasonable rent. The conferees intend that this section only apply to circumstances where the rents for particular units are above the Section 8 exception rents.

Preferences

The House amendment contained provisions not included in the Senate bill that would amend Section 8 to raise the percentage of non-preference families that can receive project based assistance to 30%, but would retain the 10% limit on tenant based assistance and that would increase from 10 to 30 the percentage of non preference families that can be placed in units in Section 8 new construction or substantial rehabilitation projects built prior to October 1, 1983 and in Section 202 projects. The conference report contains the House provision with an amendment to require that non-preference tenants be selected according to a system of local preferences that parallel the preferences for public housing tenants.

Tenant protections

The Senate bill contained a provision not included in the House amendment that would add to the lease requirements for project-based assistance that the lease between the tenant and the owner provide that the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, or any drug related criminal activity on or near the premises, and that such criminal activity shall be a cause for termination of tenancy; and (2) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action. The conference report contains the Senate provision.

Revisions to project-based certificate program

The Senate bill contained a provision not included in the House amendment that would amend the project based assistance provisions of Section 8 of the 1937 Housing Act to require owners to adopt written tenant selection procedures that are satisfactory to the Secretary as consistent with the purpose of improving housing opportunities for very low-income families; and reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection. The conference report contains the Senate provision.

The Senate bill contained a provision not included in the House amendment that would require the Secretary on an annual basis to study the extent to which the 15% limit on project-based assistance are exceeded and to report to Congress on the results of that study. The conference report contains the Senate provision.

The Senate bill contained a provision not included in the House amendment that would amend Section 8(d)(2)(C) to require PHAs, when executing a contract for project-based rental assistance, to enter into a commitment, contingent only upon future appropriations, to extend the term of the underlying rental assistance contract for such period or periods as HUD determines is appropriate to achieve long-term affordability. Owners would be bound to accept such extensions. The conference report contains the Senate provision.

Section 8 assistance for PHA owned units

The House amendment contained a provision not included in the Senate bill that would permit public housing authorities to receive Section 8 assistance payments for projects they own. The conference report contains the House provision with an amendment requiring that such assistance meet the same program requirements as for other owners and allows the Secretary to establish initial rents within applicable limits.

Definitions of participating jurisdiction and drug-related criminal activity

The Senate bill contained a provision not included in the House amendment that would add the following definitions to Section 8 of the 1937 Housing Act: "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 NAHA; and "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 102 of the Controlled Substances Act). The conference report contains the Senate provision.

Revisions to voucher program

The Senate bill contained a provision not included in the House amendment that would require that rents in units assisted under Section 8(o) of the 1937 Housing Act (voucher assistance) be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under the Section 8 certificate program. PHAs must assist families who request it in negotiating a reasonable rent with an owner, and must review all rents for units under consideration by families receiving voucher assistance to determine whether the rent requested by an owner is reasonable. The PHA may disapprove a lease for such unit which is deemed inappropriate. The Senate bill would require PHAs to obtain in writing, at

least annually, in a written form satisfactory to the Secretary, information on the percentage of income paid for rent of all families receiving voucher assistance. If, during any fiscal year, more than 10% of the families assisted under this subsection by a PHA pay more than 30% of adjusted income for rent, the local PHA would submit a report to the Secretary not later than 30 days following the end of the fiscal year which would establish and contain the public housing agency's assessment of the reasons for such excessive rent burdens, including any available evidence that the excessive rent burdens were caused by problems with the fair market rent established for the area. The Secretary would be required to make each such report readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary. The Secretary would be required to submit a report to Congress not later than 3 months following the end of a fiscal year that (I) identifies the PHAs that have submitted reports for such fiscal year as required supra, (II) summarizes and assesses such reports, and (III) includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports. The conference report contains the Senate provision with an amendment to tighten PHA reporting requirements to require that report be based on objective evidence and to limit HUD report to annually for first two years after enactment and then biannually thereafter.

Eligibility of vouchers for use with mobile homes. The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to provide voucher assistance to lower income families who utilize a manufactured home as their principal place of residence. Assistance could be used for the rental of the real property on which there is located a manufactured home owned by such family, or for rental by such family of a manufactured home and the real property on which it is located. The conference report contains the House provision.

Portability of certificates and vouchers

Under existing law, a holder of a certificate or voucher can utilize that certificate or voucher in any contiguous metropolitan statistical areas (MSA). The limitation to contiguous areas prevented the movement between MSAs and non-MSAs. The conference report addresses this problem by including a provision that allows for the movement between such areas so long as those areas are in the same state.

Renewal of expiring contracts

The Senate bill contained a provision not included in the House amendment that would require HUD, within 30 days after the beginning of each fiscal year, to publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the budget authority levels that will be required over the succeeding 5-year period to renew section 8 expiring rental assistance contracts entered into since enactment of the 1974 Housing Act. The conference report contains the Senate provision.

Authorizations. The House amendment contained a provision that would extend expiring Section 8 contracts by authorizing ($7,735,000,000) specific budget authority for 5-year section 8 certificates, loan management assistance and vouchers. The Senate bill would not authorize a specific amount of budget authority but would authorize HUD to enter into annual contributions contracts with less than 60 month terms to the extent approved in appropriations acts and included within a HUD plan on expiring contracts. The conference report contains the House provision with the understanding that this is a baseline activity.

Assistance to promote family unification

The House amendment contained a provision not included in the Senate bill that would require HUD to provide Section 8 certificate assistance to eligible families identified by local child welfare agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family. This provision would require HUD to make Section 8 assistance available to qualifying families and authorizes to be appropriated for each fiscal year such sums as may be necessary to each individual entitled to the Section 8 assistance. It would require that these provisions take effect on October 1, 1990. The conference report contains the House provision with an amendment to make this a stand alone program authorized at $35,000,000 for

each fiscal year 1991 and 1992. The conference report clarifies that families whose children are in or at risk of placement in foster care shall qualify under the existing federal preferences for Section 8 and public housing assistance as if they were families living in "substandard" housing. In addition, the bill clarifies that youths who are discharged from foster care and have no family or extended family to return to are eligible under the preference afforded to persons who are "involuntarily displaced." The conference report also establishes a new authorization of Section 8 funds to provide housing certificates to families–who are otherwise eligible for Section 8–whose children are at imminent risk of placement in foster care or are prevented from returning from foster care primarily due to lack of adequate housing. The conferees intend that funding for this initiative will be separate and above funding for the existing Section 8 programs.

Family self-sufficiency

The House amendment contained a provision authorizing the HOPE for Family Self-Sufficiency Program. The purpose of this program is to coordinate the use of public housing and assistance under Section 8 certificate and voucher programs with public and private resources to enable families to achieve economic independence and self sufficiency. The Senate bill contained a similar provision, the Operation Bootstrap Program which was limited to coordination of Section 8 housing assistance with other resources and did not include public housing. The conference report contains the House amendment with an amendment that retains provisions associated with Section 8 assistance as outlined below and eliminates references to public housing except that PHAs will be required to provide coordination services for public housing residents and any public housing residents that participate will receive program benefits.

Establishment of program. The House amendment contained a provision requiring each public housing agency that administers Section 8 certificate or voucher assistance or provides public housing to carry out a local HOPE for Family Self-Sufficiency program. The program, subject to availability of supportive services, would include an action plan providing comprehensive supportive services for the families who choose to participate. The Secretary must consult with other federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering a local program may employ a service coordinator. The Senate bill contained a similar provision except that the program would be optional to public housing agencies until October 1, 1992, when the program becomes mandatory. A public housing authority participating in the program is required to take steps to ensure that the number of families participating in the program is equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance beginning with FY 1991. The agency must operate the program for that number of families as long as it has sufficient funding under its certificate programs to do so.

The conference report contains the House provision with an amendment that makes the program discretionary for PHAs in FY 1991–1992 and mandatory beginning in FY 1993, requires that for Section 8 assistance the number of program participants be no more than the total number of incremental vouchers and certificates for FY 1991 and FY 1992, and requires that the program continue so long as there is sufficient funding to do so. Participation is mandatory for new vouchers and certificate holders, as well as for PHAs receiving new allocations. The conferees wish to emphasize that public housing agencies may opt out of participation in this program if they are able to demonstrate to the Secretary that local services cannot be made available to additional recipients of Section 8 rental assistance. If local resources are already stretched to their limit, oversubscribed, or simply absent, PHAs should not be penalized for failing to muster local support services over which they have no direct control. The conferees do not intend that HUD withhold Section 8 rental assistance or other HUD funds to those PHAs which opt out of the HOPE for Family Self-Sufficiency program. Such a policy would penalize those communities and residents least able to afford support services by denying them other Federal HUD funds, such as HUD rental assistance. Indeed, it may well be that the PHAs which opt out and their communities are those most in need of additional rental assistance as well as other HUD programs.

Contract of participation. The House amendment contained a provision requiring each participating public housing agency to enter into a contract with each receiving participating family Section 8 or public housing assistance who elects to participate in the program. The contract must specify the resources and supportive services to be made available and the responsibilities of the participating families. The Senate bill was similar but did not require a contract and was limited to participation for only Section 8 tenants. The conference report contains the House provision with an amendment to require a contract of participation only with Section 8 recipients and provides a technical amendment on participating families. In order to receive services, public housing families would be required to sign such a contract. The PHA can withdraw vouchers or certificates and services from non-cooperating families.

Effect of increases in family income. The House amendment contained a provision requiring that any increase in the earned income of a participating family not be considered as income or a resource with respect to any other benefits or program administered by the Secretary unless the income of the family equals or exceeds 80% of the area median income. For each participating family, the difference between 30 percent of income and the amount of rent paid would be placed in an interest bearing escrow account established by the PHA on behalf of the participating family and could be withdrawn after the family is no longer a recipient of public assistance for housing. The Senate bill contains a similar provision except the limitation applies to all Federal benefit or federally assisted programs based on need. The conference report contains the Senate provision with an amendment to phase out escrow accounts as a family's income increases between 50 and 80 percent of median.

Program coordinating committee. The House amendment contained a provision for membership of the program coordinating committee to consist of representatives from the public housing agency, the local government, the local agencies who administer the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program, and other organizations. The Senate bill contains a similar provision except that delineated membership would be mandatory not permissive. The conference report contains the House provision.

Allowable public housing agency administrative fees and costs. The House amendment contained a provision requiring the Secretary to establish a fee for administering the provision of certificates and vouchers under this program. The PHA could also receive up to $25 per certificate or voucher for start-up costs. The Senate bill contained a similar provision except it would continue the Section 8 administrative fee in effect June 1, 1990 (8.5%), until the GAO completes its report on self-sufficiency programs. The Secretary would be required to adopt the fee recommended by the GAO. The conference report contains the Senate provision with an amendment retaining start up bonus for certificates or vouchers of $25.00 (subject to appropriations) and makes the GAO finding a recommendation that would not require adoption. Instead the Secretary would be required to adopt a fee once GAO has reported on its study.

The House amendment contained a provision not included in the Senate bill requiring the Secretary to provide for the inclusion under the performance funding system of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. An estimate of the administrative costs likely to be incurred by participating public housing agencies would be included in the annual budget request for public housing operating assistance. Authorizes from amounts appropriated for operating subsidies, $25,000,000 for these administrative costs. The conference report contains the House provision.

The House amendment contained a provision requiring the Secretary to reserve for allocation under this subsection not less than 10% of the Section 8 budget authority available in FY 1991 and each fiscal year thereafter for certificate and voucher assistance under Section 8. It would provide for a similar reservation for programs in public housing development assistance. The Senate bill contained a similar provision except the reservation of certificate and voucher budget authority is limited to FY 1991 and 1992. The Senate bill did not contain a provision for public housing development assistance. The conference report contains the Senate provision.

On-site facilities. The House amendment contained a provision not included in the Senate bill allowing each public housing agency to use common areas or vacant units for the provision of supportive services under its self-sufficiency program. The conference report does not contain the House provision.

GAO report. The House amendment contained a provision requiring the GAO to submit to Congress an interim report and a final report evaluating the HOPE for Self-Sufficiency Program. This report must be submitted not later than the expiration of 2 years and 5 years respectively, beginning on the effective date of the final regulations issued under this section. The final regulations implementing this section must be filed within 14 months of enactment and such regulations must become effective 1 year after publication of the final regulations. The Senate bill contained a similar provision except that the required reports would be submitted at the expiration of 2 years and 5 years respectively, beginning on the date of enactment. The conference report contains the Senate provision.

Applicability to Indian public housing. The House amendment contained a provision not included in the Senate bill requiring the provisions of this section to also apply to public housing developed or operated pursuant to a contract between the

Secretary and an Indian housing authority. The conference report contains the House provision.

Employment of PHA residents. The Senate bill contained a provision not included in the House amendment requiring each public housing agency to employ public housing residents to provide services. It would require wage rates to be the higher of the minimum wage under the Fair Labor Standards Act of 1938; the State or local minimum wage for the most nearly comparable covered employment; or the prevailing wage rates for similar public occupations by the same employer. The conference report contains the Senate provision.

Treatment of income. The Senate bill contained a provision not included in the House amendment prohibiting treating the services as income for the purpose of any other program of State or Federal law. The conference report contains the Senate provision.

Definitions for this subsection. The Senate bill contained a provision not included in the House amendment defining "eligible resident" to mean a person residing in public housing who is a single parent head of household with 1 or more children under the age of 10; and is economically disadvantaged within the meaning of sections 4(8) (A) and (B) of the Job Training Partnership Act. The conference report does not contain the Senate provision.

The Senate bill contained a provision not included in the House amendment defining "qualifying supportive services" to mean new or significantly expanded services that the Secretary deems essential to provide families in public housing with better access to educational and employment opportunities including, but not limited to child care; employment training and counseling; literacy training; computer skills training; and assistance in the attainment of certificates of high school equivalency. Such services could be provided directly by the PHA or by contract or lease with service providers. The conference report contains the Senate provision with an amendment adopting the definition of "supportive services".

Benefits excluded from income. The Senate bill contained a provision not included in the House amendment amending section 3(a) of the Housing Act of 1937, to exclude the earnings of and benefits to any public housing resident resulting from participation in any self-sufficiency program from income for the purposes of determining rent paid by the resident during the resident's participation in such program; and the period, not to exceed 18 months, from the first job acquired by the person after completion of such program to the date the resident loses employment without good cause or 18 months, whichever occurs first. The conference report contains the Senate provision with a technical drafting amendment relating to Section 14(j) to allow PHA tenants to receive benefits.

The House amendment contained a provision authorizing $25,000,000 in FY 1991, and such sums as may be appropriated in fiscal years 1992 and 1993. The Senate bill contained a provision that would authorize $50,000,000 for FY 1991, $52,000,000 for FY 1992 and $54,080,000 for FY 1993 for project independence. The conference report contains the House provision with an amendment to authorize $26,075,000 for FY 1992.

GAO studies on economic self-sufficiency. The Senate bill contained a provision not included in the House amendment requiring the Comptroller General to submit to the Congress, not later than 18 months following the date of enactment of the **NationalAffordableHousingAct**, a report evaluating the policy and administrative implications of requiring State and local governments to tie the provision of rental assistance under Section 8 of the United States Housing Act of 1937 to participation in economic self-sufficiency programs. In addition, in preparing such report, the Comptroller General shall consider the additional costs to public housing agencies under such programs and shall recommend a change in the amount of the administrative fee under Section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Operation Bootstrap Program.

The Senate bill also contained a provision not included in the House amendment requiring the Comptroller General to conduct a study, and to report to the Congress, not later than 12 months after enactment, to examine how housing policies and social service policies affect beneficiaries, particularly those receiving public assistance, when such beneficiaries gain employment and experience a rise in income and to analyze the extent to which existing housing and other laws create disincentives to upward income mobility and to recommend any changes to existing law which would remove such disincentives.

The conference report contains both Senate provisions with an amendment combining these two studies into one.

Income eligibility for tenancy in new construction units

The House amendment contained a provision not included in the Senate bill that would require construction and substantial rehabilitation projects assisted under Section 8 as it existed prior to October 1, 1983, to house lower-income families to the extent assistance was reserved for such families by Section 8 at the time the contract was made. The conference report contains the House provision.

Distribution of section 8 certificates

The Senate bill contained a provision not included in the House amendment that would amend the requirement for formula allocation adopted in the HUD Reform Act to allow assistance under Section 8(b)(1) of the United States Housing Act of 1937 to be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with Section 105 of the NAHA. The conference report contains the Senate provision with an amendment to clarify that provision does not affect fair share allocation.

Settlement agreement regarding certain section 8 assistance

The House amendment contained a provision not included in the Senate bill that would require HUD to provide 186 Section 8 certificates to the City of Norfolk, Virginia, in satisfaction of a settlement agreement. The conference report contains the House provision.

GAO study regarding fair market rent calculation

The House amendment contained a provision that would authorize HUD, upon request of a PHA, to approve separate fair market rents for areas that are geographically smaller than a market area and are wholly contained within such market area if the PHA demonstrates that the alternative fair market rents proposed accurately reflect rent variations between such areas and the established market area. The Senate bill contained a similar provision but did not define "submarket area". The conference report contains the Senate provision with an amendment to require GAO to do case studies to examine and report on the geographic dispersion of certificates and vouchers in marked areas and to study how FMR levels may inflate rents.

Study of Section 8 utilization rate

The House amendment contained a provision not included in the Senate bill that would require HUD to study the utilization of Section 8 assistance by cities and to report to Congress within 1 year of enactment on the results of the study. The Senate bill contained a provision not included in the House amendment that would require the Secretary to conduct a study of a sample of Section 8 assisted housing and Section 202 housing to determine the amounts that are contained in existing residual receipts accounts. The conference report contains both the House and the Senate provisions.

Feasibility study regarding Indian tribe eligibility for voucher program

The House amendment contained a provision not included in the Senate bill that would require HUD to study the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance. The conference report contains the House provision.

Adjustment of subsidy under voucher program

The Senate bill contained a provision not included in the House amendment that would amend the provision of Section 8(o) that establishes the amount of Federal assistance under the voucher program to allow payments to families that remain in a

unit after receiving voucher assistance. The Senate bill would allow such families to receive the amount by which the rent for the dwelling unit exceeds 30% of the family's monthly adjusted income not to exceed the amount of the standard payment. The conference report does not contain that provision.

Conferees comment on qualifications-based selection procedures

Because of HUD's conflicting guidance, architectural and engineering ("A/E") firms competing for contracts financed through the public housing and community development block grant ("CDBG") programs are not being selected according to the procedure, the Qualifications-Based Selection or "QBS" procedure, that assures the selection of the best qualified firm. Under QBS, A/E firms compete based on their professional qualifications and quality of services. A contracting officer selects the most qualified firm based on the capacity, technical qualifications, timely performance, accomplishments, reputation and references and then negotiates a fair and reasonable price for the service. If a fair price cannot be agreed to with the most highly qualified firm, negotiations as to price begin with the second best qualified firm.

QBS is the preferred system for selecting A/E services because the precise scope and range of the design services which are the basis for any contract price cannot be accurately determined until specific negotiations begin. Innovative approaches and alternative designs or methods arise when a client and a design professional develop the precise scope of a project together. Too often when a scope of work is developed as part of a price bidding system prior to the selection of an A/E firm, it is so vague that inaccurate assumptions are made by the A/E firm responding to the solicitation. Even when a public housing agency or CDBG grantee has in-house professional design staff sufficiently skilled to develop a detailed scope of work upon which an A/E's price bid can be based, the complexity of the contract cannot be anticipated and the bids often do not accurately reflect the cost. QBS requires A/E firms to compete based on skills, experience and ability to perform the required services–not on the illusory economy that a low bid may seem to provide. Low bids requiring substantial change orders or resulting in high construction or high life-cycle operating or maintenance costs are not cost-effective.

While HUD's regulations permit the use of QBS in selecting A/E services, they also cite two procedures that are less appropriate for the selection of such services: qualifications-plus-price or small purchase procedures for contracts under $25,000. In an attempt to clarify its procedures, HUD has issued conflicting notices, handbooks and letters that have confused public housing authorities and CDBG grantees. Some grantees tell A/E firms that HUD prohibits the use of QBS; some believe they must base their selection solely on the lowest bid; others believe they must use small purchase procedures that stress price, not quality; while others explain that notwithstanding state or local requirements requiring the use of QBS, HUD requires competition based on qualifications-plus-price.

TITLE VI–PRESERVATION OF AFFORDABLE RENTAL HOUSING

Subtitle A–Prepayment of Mortgages Insured under the National Housing Act

Background. During the next 12 years, over 360,000 units of federally assisted housing may be withdrawn from the affordable housing supply by their owners. Contracts entered into by the federal government and private developers under low interest loan programs of the 1960's (section 236 and section 221(d)(3)) permitted certain owners to prepay the federally assisted mortgage after the twentieth year of the forty year mortgage term. A mortgage prepayment and termination of the mortgage insurance contract has the effect of ending federal restrictions over the use of the property for the benefit of low and moderate income households.

Faced with an immediate threat of losing this resource, and the real prospect that thousands of low-income households would be involuntarily displaced through prepayment, Congress enacted an emergency measure in 1987. This temporary measure was designed to give Congress time to fashion a permanent program for the preservation of this housing. During this time, much has been learned about the strengths and weaknesses of the administrative process and the financial, tax and regulatory underpinnings of the prepayment decision. More importantly, a consensus has finally emerged on how best to strike the balance among the interests of owners, the tenants and the communities most affected by the consequences of prepayment. The fundamental principle of the 1987 Act was that the housing should be preserved for its intended beneficiaries and that owners should be guaranteed a fair and reasonable return on their investment through new incentives. While the principle of

the 1987 Act is retained, this legislation transforms the goal of a fair and reasonable return into a set of concrete economic alternatives for the owner that can be pursued through a more objective and streamlined process.

Senate bill. The Senate bill placed prime emphasis on the need to retain this affordable housing stock for its remaining useful life. Owners of eligible housing had three options. They could: (1) seek to terminate the low-income affordability restrictions of the housing (through prepayment); (2) extend the low-income use of the housing; or (3) transfer the housing to a qualified purchaser. Unlike current law, the proposal explicitly established a clear preservation value of eligible low-income housing. The value was an amount equal to the fair market value of the housing as multifamily rental housing–less costs that would have been incurred for rehabilitation and conversion to market rate housing. The preservation value also included a discount to reflect the residual value of federal assistance that was provided to the project over the years.

For owners who sought to extend the low-income use of the housing, HUD was directed to provide incentives that gave the owner an 8 percent return on its equity in the housing (the preservation value minus the existing debt). HUD was also directed to provide additional subsidies to bring the housing up to standard.

Owners who sought to transfer the housing were directed to give priority purchasers (residents, nonprofits and public agencies) a first opportunity to acquire the housing. Once a designated period passed, the owner could sell the housing to any qualified purchaser (i.e. any entity that agreed to extend the low-income use of the housing for the remaining useful life of the property). HUD was directed to give qualified purchasers sufficient subsidies to (a) acquire the housing at the preservation value; (b) rehabilitate the housing up to standard; and (c) establish sufficient operating and replacement reserves.

For owners who sought to prepay and terminate the low-income affordability restrictions, HUD was to make sure that such action would neither (1) create economic hardship for current tenants or displace them where comparable affordable housing is not readily available; nor (2) harm availability of low-income housing, lessen ability of low-income families to find housing near jobs, or reduce housing opportunities for minorities.

House Amendment. The House amendment contained a bipartisan provision that recognized owners' contractual interests at the same time it provided broad tenant protections. Owners would file notice to receive incentives, sell the housing, or pay off the mortgage subject to a one-year right of first refusal by qualified purchasers. The House amendment set up a streamlined process for the delivery of incentives, but also set new standards of property maintenance to protect tenants' rights. Owners receiving incentives were required to preserve the property for up to 30 years beyond the eligibility date, for a total of 50 years of use agreements.

The House amendment established a mechanism for recognizing the property owners' contractual interest while not paying overly generous benefits to owners. Under the appraisals, owners would be notified of two values. First, owners deciding to stay in the program would receive an appraisal evaluating their property at highest and best rent residential usage. Owners choosing to sell or forced to sell their property would be paid at highest and best usage, without restrictions. Incentives paid by the government were capped at 110% of the fair market rent, and were available to current owners as well as prospective purchasers.

The House amendment set forth generous tenant protections in the case of an owner paying the mortgage, including three-year rent extensions in low-vacancy areas, and guaranteed access to Section 8 assistance.

In seeking an equitable and expeditious workout of this complicated policy issue, and providing generous incentives and protections for owners and tenants alike, the House amendment preempted any state and local laws not of general applicability.

Conference Report/Summary. The conference report contains the Senate provision with a series of amendments to: (1) authorize sales based on "highest and best use" valuation; (2) permit federal mortgage insurance for equity-take out loans as well as acquisition loans; (3) eliminate any "public discount" on value; (4) place controls on the federal expenditure for preserving individual housing projects; (5) allow owners to prepay under limited circumstances; (6) provide stronger safeguards in the event of prepayment; (7) preempt certain State and local laws; and (8) make a variety of other changes to Senate provisions.

The significant elements of the conference report are as follows:

1. Fair Market Return. Owners would receive fair market return on their property. If, within cost limits noted below, HUD is able to offer the owner that fair market return, the owner would be required either to maintain certain affordability restrictions on the housing for its remaining useful life or to transfer the housing to a qualified purchaser (e.g. nonprofit) that will.

If an owner decides to sell, the housing would be appraised at "highest and best use" value, less costs the owner would have incurred under conversion. HUD would enable a qualified purchaser to pay that value.

If an owner decides to retain the housing's affordability restrictions, the housing would be appraised at its highest residential rental value, less costs the owner would have incurred under conversion. HUD would give the owner an 8 percent return on the equity derived from that value.

2. Federal Cost Limits. HUD would make an initial assessment of the aggregate project income ("preservation rent") that will be needed to support preservation costs. HUD would then compare the preservation rent with cost limits pegged at a percentage of the Section 8 fair market rents or, in rare cases, the comparable local market rents.

If the preservation rent test shows that incentives above the federal limits are needed, owners would have to give qualified purchasers (tenants, nonprofits, and others) an opportunity to supplement the HUD subsidy and purchase the property at the appraised "highest and best use" value. A special set-aside of capital grant funds would be established to assist priority purchasers cover the gap.

3. Permissible Prepayment. Owners would be permitted to prepay in three circumstances: (1) if a prepayment would not harm long-established policy objectives; (2) if HUD is unable to fund preservation incentives within 15 months (or shorter in the case of owners who attempt to sell their properties); or (3) where there is no willing qualified purchaser in the case of a voluntary or mandatory sale.

4. Tenant Protections. In the event of a prepayment, strong tenant protections and relocation requirements would be included.

5. Preemption. The solution would recognize that a fair Federal preservation policy must apply uniformly to all affected properties regardless of location. For that reason, the solution would preempt State and local laws that target only prepayment projects for special treatment. Laws applicable to both assisted and nonassisted housing would be in full force.

Conference Report/Detailed Explanation

Notice–An owner of eligible low-income housing would be required to file a notice indicating its intent to pursue one of three options: seek to terminate the low-income affordability restrictions through prepayment or voluntary termination, seek incentives to extend such restrictions or seek to transfer the housing to a qualified purchaser. The owner could file this notice up to 24 months before the date of eligibility to prepay. The conference report would require the owner simultaneously to file the notice with the appropriate State and local government and the mortgagee and to notify the tenants of the housing.

Termination of affordability restrictions. Within 6 months of receipt of a notice seeking to terminate the low-income affordability restrictions, the HUD Secretary would be required to provide the owner with such information as the owner needs to prepare a plan of action. HUD would, in particular, provide information relating to the criteria governing such termination and the documentation required to satisfy such criteria. HUD would also provide relevant market area and demographic information and other information to assist the owner in preparing the plan of action.

The criteria for approval of plans of action that seek termination of the low-income affordability restrictions essentially mirror the criteria contained in the 1987 Housing Act (as amended by the McKinney Homeless Assistance Amendments of 1988). The HUD Secretary could approve such a plan of action upon finding that the plan satisfies long-established national objectives. Specifically, the Secretary must find that implementation of the plan of action would neither (1) create hardship for current tenants or displace them where comparable and affordable housing is not readily available nor (2) materially affect the general supply of low-income housing in the market area, lessen the ability of low-income people to find housing near job opportunities or reduce housing opportunities for minorities.

If the Secretary determined that the public purpose criteria had not been satisfied, the owner's plan of action would be disapproved. In this event, the owner would have the option to seek incentives to extend the affordability restrictions or transfer the housing to a qualified purchaser. A new notice of intent would then be filed and the general process governing such notices would then apply.

Incentives to Remain in Program or Transfer to Qualified Purchasers. Receipt of a notice of intent from an owner who wishes to accept preservation incentives and continue ownership or to transfer the housing to a purchaser that will extend affordability restrictions, triggers a different process than the one described above.

Within 9 months HUD would perform three essential tasks: (1) establish (through an appraisal process) the preservation value of the property; (2) estimate the cost of preserving the housing; and (3) determine whether these costs could be supported by a rent stream within the federal cost limits. After completing these tasks, HUD would provide owners with the information obtained and inform them about the determinations that have been made. Owners will then have the opportunity to make an informed decision as to how to proceed under the federal preservation process.

Step One: Valuation. After a notice of intent is filed, the first step in the incentive process is to value the property. The conference report would establish a standard method for calculating two "preservation values" for each property. The first preservation value would equal the appraised fair market value of the housing as multifamily rental housing less certain adjustments. The second preservation value would equal the appraised "highest and best use" value of the property less certain adjustments.

The conference report adopts the 3 appraiser approach currently used under the Farmers Home prepayment provisions. The preservation values of the property would be set by two independent appraisers, one chosen by the Secretary and one chosen by the owner. If the two appraisals conflict and the Secretary and the owner cannot agree on a value, then a third appraisal would be used to resolve the conflict between the owner and the Secretary's appraisals, so that a final value determination could be reached.

The valuation process is designed primarily to determine what economic result an owner might have achieved by prepaying the existing HUD-assisted mortgage, ending the affordability restrictions on the housing and converting the housing to alternative use (i.e. market rate rental housing, condominiums or nonresidential uses). Appraisers will need to estimate the particular costs that would have been incurred as a result of such actions including the costs of (1) bringing the subject property up to standards that are necessary to attract and sustain a market rate tenancy; and (2) converting the housing or property to alternative use. The Committee Report accompanying the Senate bill included a detailed discussion–which HUD should examine closely–of the types of costs owners would have incurred in the event of prepayment and conversion. The conferees note, in particular, that appraisers will need to examine the effects that State and local laws applying to assisted and nonassisted housing (e.g. condo conversion, zoning, rent control) would have had on an owner's conversion plans. In addition, any separate use agreements entered into by the owner with an entity or agency must be considered. The conferees have determined that some state housing finance agencies could play a useful role in assisting appraisers in assessing rehabilitation needs and costs as well as determining conversion costs that would have been borne by a prepaying owner.

The Secretary would be directed to establish specific guidelines for the appraisals conducted under the preservation program, in accordance with a series of instructions set forth in the conference report. These instructions emphasize the unique nature of these "preservation" appraisals. Appraisers will need to make a number of special inquiries in order to determine the economic result that an owner would have received in the event of prepayment and conversion. It is expected that some of these inquiries will supplement what appraisers generally consider within the context of routine real estate transactions. The conferees believe that HUD is well positioned, given the history and experience under the 1987 Act, to provide clear and consistent guidelines on this vital aspect of the preservation process. HUD should consult closely with knowledgeable parties, particularly state housing finance agencies and others that have participated in the existing system.

The conference report specifically directs that appraisers use the greater of actual project operating expenses at the time of the appraisal (based on the average expenses during the previous three years) or projected operating expenses upon conversion. The purpose of the statutory language on average expenses is to enable an appraiser to adjust for extraordinary and nonrecurring costs that make the current year operating expenses abnormally high or abnormally low. To the extent that

current project expenses reflect costs that are unlikely to decrease in the future, the appraiser should use current project expenses in making the comparison with post-conversion expenses.

Step 2: Assessing Preservation Rents Against Federal Cost Limits. After determining the preservation values of a housing project, HUD would make an initial assessment of the aggregate project income ("preservation rent") that will be needed to support preservation costs. HUD would then compare this project income to federal cost limits–capped at a percentage of Section 8 FMRs or prevailing rents in the relevant local market area. This determination will separate the higher cost properties from the bulk of the inventory and set the stage for the remainder of the preservation process.

Preservation Rent. The conference report directs HUD to make an attempt early in the process to assess the costs of preservation in terms of necessary project income–the aggregate "preservation rent".

Where an owner stays in, the aggregate preservation rent would be the amount required to cover the following costs: the authorized return, debt service on any rehabilitation loan, debt service on the federally-assisted mortgage (net of the interest reduction payment in a Section 236 project), project operating expenses and adequate reserves. The annual authorized return would be set at 8 percent.

Where an owner sells, the aggregate preservation rent would be the amount required to cover the following costs: debt service on the loan for acquisition of the housing, debt service on any rehabilitation loan, debt service on the federally assisted mortgage (net of the interest reduction payment in a Section 236 project), project operating expenses and adequate reserves.

The conferees caution the Secretary in the application of the preservation rent concept. The Secretary may not have all necessary cost information at the early stages of the process. In particular, no decisions may have been reached about which costs (including rehabilitation or payment of preservation equity in a sale) should be supported through the rent stream and which should be defrayed through other incentives. Yet the time periods required to implement the mandatory sale provisions (described below) make it necessary to provide an initial estimate of costs and project income very early in the process.

Federal Cost Limits. The Secretary would compare the aggregate preservation rents for a given property against special cost limits established for the preservation program. The aggregate preservation rent would first be compared against 120% of the jurisdiction's Section 8 Existing Fair Market Rents multiplied by the total number of units in the project. If the aggregate preservation rent is equal to or less than the income stream created by 120% of the jurisdiction's fair market rents, the cost of preserving the project would be considered within the federal cost limits and the owner would proceed as described below in step three.

If the aggregate preservation rent exceeds 120% of the jurisdiction's fair market rents, the Secretary would administer a second cost limit test. Specifically, the conference report would direct HUD to look at the rent levels in the immediate area in which the housing is located (the "Local Market Rent"). If the aggregate preservation rent is equal to or less than 120% of the Local Market Rents (multiplied by the number of units), the cost of preserving the project would be considered within the federal cost limits and the owner would proceed as described below in step three. If the aggregate reservation rent exceeds 120% of the Local Market Rents (multiplied by the number of units) the cost of preserving the project would be considered outside the federal cost limits and the owner would proceed as described below in step four.

The second cost limit test was developed because of a serious concern that, in some cases, there might be no correlation between the fair market value of eligible housing upon conversion and the Section 8 Fair Market Rents. Section 8 FMRs have several deficiencies for purposes of establishing a federal cost limit for the federal preservation program: they are based on the 45th percentile rent; they exclude newly constructed housing; and they generally cover large geographic areas.

Step Three: Preservation Rents within Federal Cost Limits. Owners of housing that can be preserved for low income use within the federal cost limits would have two choices: seek incentives to stay in and maintain the affordability of the housing or transfer the housing to a qualified purchaser who will do so.

Stay In. Owners who elect to stay in would file a plan of action within 6 months of receiving information from the Secretary as described above. HUD would be directed to provide such owners with incentives that, inter alia: (1) enable the owners to

receive an authorized return on their preservation equity; (2) pay debt service on the existing HUD mortgage (net of interest reduction subsidies); (3) pay debt service on any loan for rehabilitation approved by HUD; (4) meet project operating expenses; and (5) establish adequate reserves. Section 8 rental assistance could be set higher than 120% of Existing FMRs to cover these costs. Owners would also have access to a portion of their preservation equity through the Section 241(f) program as described below.

Voluntary Sale. Owners who elect to sell would be required to file a second notice of intent stating that fact. A "right of first offer" process would then ensue. The owner would be required to give "priority purchasers" 12 months (from the date the second notice of intent is filed) to make a bona fide offer for the property and to negotiate a purchase agreement with the owner.

If no bona fide offer is made within this period, owners would have to give "qualified purchasers" an additional three months to make a bona fide offer for the property and to negotiate a purchase agreement with the owner. It is expected that after an agreement is reached with a purchaser, the parties will file a plan of action requesting the necessary incentives. Filing may not occur until quite late in the process–a key distinction with the situation where the owner seeks to maintain the affordability of the housing.

The conferees recognize that a qualified purchaser might not be able to consummate a purchase for reasons other than the absence of sufficient appropriations. If the time periods referenced above have not expired, an owner would need to continue marketing the housing in accordance with those time periods. This provision is included in section 224.

The conferees have provided for this special "right of first offer" period in order to establish a genuine advantage for priority purchasers. In doing so the conferees balanced the legitimate interests of the Department, owners and tenants in not creating unnecessary or unjustified delays through unlimited negotiations against a clear and legitimate policy interest in facilitating and encouraging transfers to priority purchasers.

The conference report would define priority purchasers as including three kinds of entities: (1) a resident council that is organized to develop and implement an approvable resident ownership program, (2) a qualified nonprofit organization that is dedicated to the promotion of affordable housing and agrees to maintain the low-income affordability restrictions for the housing's remaining useful life, and (3) State and local housing agencies which agree to maintain the low-income affordability restrictions for the housing's remaining useful life. The Committee intends that qualified nonprofit organizations essentially conform with the requirements established for community housing development organizations under the HOME program.

A qualified purchaser would be defined as including priority purchasers and any other entity (including for-profit entities) that agrees to retain the housing's affordability restrictions for the remaining useful life of the housing.

For approvable plans of action, HUD would provide qualified purchasers with subsidies sufficient to, inter alia, (1) acquire the property at a price no greater than the preservation value; (2) pay debt service on any loan approved by HUD for the rehabilitation of the housing; (3) pay debt service on the existing HUD loan (net of interest reduction subsidies); and (4) establish sufficient operating and replacement reserves. Resident councils would also receive additional subsidies for training purposes and homeownership counseling. Priority purchasers could receive additional assistance to cover transaction costs and related expenses.

Acquisition subsidies could take various forms. For priority purchasers, the Secretary could provide a grant that does not exceed the present value of the projected published Section 8 existing housing fair market rents for the next 10 years (or such longer period if needed to cover the eligible costs referenced above). The Administration proposal authorized this form of subsidy only for acquisitions made by resident councils. The conferees believed that the focus on resident ownership was too narrow and expanded the pool of eligible recipients to include nonprofit organizations and public agencies. The conferees also provided the Secretary with more flexibility in setting the amount of assistance. The conferees intend that the Secretary work closely with priority purchasers to determine which mix of subsidies best suits their preferences and organizational capacity.

For all qualified purchasers, the Secretary could provide the same incentives that are available to owners who seek to retain

ownership and extend the affordability restrictions. Acquisition financing would be permitted under the Section 241(f) program, described below.

Step Four: Preservation Rents Exceed Federal Cost Limits. Owners of housing that cannot be preserved for low income use within the federal cost limits would have two choices: (1) voluntarily decide to seek incentives within the federal cost limits under the process described under step three; or (2) seek to prepay the mortgage, subject to offering the housing for sale in accordance with mandatory sale provisions.

Under the mandatory sale process owners would be required to file a second notice of intent, triggering the start of a "right of first offer". The owner would be required to give "priority purchasers" a 12 month period (from the date the second notice of intent is filed) to make a bona fide offer to purchase the housing at the housing's preservation value (the "highest and best use value"). If no offer is received from a priority purchaser, the owner would then offer the project for sale to other qualified purchasers at the preservation value. Owners would be required to accept any bona fide offers at such value.

To facilitate these transfers, HUD would provide a stream of rental subsidies set at 120% of the Local Market Rents and any other incentives authorized in a sale situation. HUD would then assist the purchaser in closing the gap between the level of incentives described above and the preservation value of the housing. HUD would, for example, assist potential purchasers in their efforts to secure funding from state or local governments, or concessions (local real estate taxes, water and sewer assessments). Most importantly, HUD would have access to a special capital grant pot to provide the necessary gap financing. This funding source would need to be separately approved in appropriations Acts.

Step Five: Safeguards in Event of Prepayment

Unlike the existing law, the conference report recognizes that some prepayments may need to occur. A willing buyer, for example, may not emerge during the voluntary or mandatory sale periods. Alternatively, HUD may approve a plan of action only to find that it does not have sufficient funds for the approved incentives. An owner may prepay where the owner's plan to extend the affordability restrictions is approved but HUD does not provide any assistance to fund the approved incentives for the 15 months following the date of approval.

Special rules will apply to owners who wish to sell the housing. Where a sale plan is approved after the original prepayment date for the housing, an owner would be permitted to prepay if HUD fails to fund the approved incentives within the 2 month period following the beginning of the next fiscal year (but in no event later than 6 months following the date the plan of action is approved).

Where a sale plan is approved before the original prepayment date for the housing, an owner would be permitted to prepay if HUD fails to fund the approved incentives within the 2 month period following the beginning of the next fiscal year (but in no event later than 9 months following the date the plan of action is approved).

In the event of prepayment, HUD would have several tools to protect the existing tenants and assist the affected community in replacing the lost stock. The tenant protections build upon provisions contained in the House bill as well as in State laws such as the Maryland Assisted Housing Preservation Act. Six major protections would be provided:

1. Section 8 certificates or vouchers would be provided to tenants with incomes below 80% of area median incomes. HUD would work with local public housing agencies to ensure that displaced tenants are able to find affordable, comparable housing in the vicinity.

2. Special rules would apply to owners of housing located in a low-vacancy area. Such owners must allow existing tenants to remain in the housing at the rent levels existing at the time of prepayment for three years.

3. Three-year lease extensions would also be provided to tenants with special needs in all areas (including elderly, persons with disabilities and other populations designated by the Secretary as special needs populations).

4. Owners would be required to pay 50% of moving expenses as provided in House bill (unless state or local law of general applicability provides a higher level of benefits and assistance).

5. Owners who prepay and retain rental character of housing would be obligated to accept tenants with rental certificates or vouchers. HUD would be authorized to set FMR levels at the "exception rent".

6. HUD would be directed to set-aside from appropriations for the preservation solution (or from annual Section 8 appropriations) the funding that is necessary to provide assistance for tenants displaced from prepaid projects.

Miscellaneous Provisions

1. Insurance for Second Mortgage Financing. The Senate bill did not authorize the Secretary to insure equity take-out loans under the Section 241(f) program on behalf of current owners, as provided by existing law. The Senate's action reflected a concern that the combination of permanent affordability restrictions and substantial insured equity loans would remove owner incentives for long-term maintenance, posing unwarranted risk to the mortgage insurance funds. In contrast, the House bill authorized insurance for up to 80 percent of the owner's equity in the project.

The conference report contains a limited Section 241(f) program for current owners who elect to maintain the affordability of their projects. The report would restrict the amount of equity take-out loans to the lesser of: (1) 70% of the owner's preservation equity in the project; or (2) the amount that is supportable by an 8% return on preservation equity. For example, if the preservation value is $60,000 and the outstanding debt relating to the property is $10,000 per unit, the preservation equity would be $50,000 per unit and the amount available to service the equity loan is $4,000 per unit ($3,600 per unit with 90% debt service coverage). The maximum equity loan that could be serviced from this return at 10.5% for 40 years is approximately $33,700 per unit or 67% of preservation equity.

Under the conference report, owners who choose to convert their annual authorized return into debt through an insured equity take-out loan will not be given a greater economic benefit than owners who take their return annually out of cash flow. The conference report seeks to achieve economic parity between these two groups of owners, by providing that debt service payments on equity take-out loans will be made from the annual authorized return. To encourage responsible ownership, the conferees have provided for a holdback of 10 percent of the loan proceeds to be made available to the owner after five years, subject to compliance with the maintenance and low income affordability standards.

The conferees intend to encourage the use of the section 241(f) program to transition the housing to resident, nonprofit and public ownership. In fact, the conferees have revised the existing program to allow for 95% financing for qualified purchasers. Subject to approval by the Secretary, insured acquisition loans for priority purchasers may also include transaction costs, financing costs, and costs associated with implementing the Plan of Action (such as operating losses attributable to the rent phase-in, if any).

With respect to mandatory sales, the amount of the insured acquisition loan will be restricted by federal cost limits, providing a gross potential income for the project equal to 120% of the prevailing rents for the relevant local market area. The conferees intend that grant funds authorized under section 221(d)(2) be allocated to priority purchasers to cover non-mortgageable acquisition and related costs where the federal cost limits are exceeded.

2. Remaining Useful Life. The conference report requires that owners accepting incentives as well as purchasers of the housing maintain the affordability restrictions for the remaining useful life of the housing. This commitment to permanent affordability constitutes one of the major decisions of the conference and a departure from both the 1987 Act and the House bill.

The conferees specifically considered and rejected the Resolution Trust Corporation's interpretation of the term "remaining useful life" that was contained in the FIRREA legislation. Rather, the conferees decided to define the term and establish procedures to govern its enforcement.

The term "remaining useful life" would be defined as meaning the physical life of a building assuming normal maintenance and repairs and such replacement of major systems and capital components as necessary. HUD would be authorized to apply the definition to individual buildings and to determine, specifically, when a building's useful life has ended. The Secretary would establish standards–by notice-and-comment rulemaking–to govern such determinations.

Owners would have the right to petition HUD to declare that their housing's useful life has ended. Such petition could not be filed until 50 years after the date on which the owner's plan of action is approved. The burden would be on the owner to prove that the useful life of their housing has ended for reasons other than owner failure to regularly repair and replace systems; evidentiary rules would be established by the Secretary.

Tenants and local communities would have the right to comment on owner's petition and to administratively appeal an adverse HUD determination.

3. Consultation with Other Parties. Section 228 requires the Secretary to consult with interested parties in the development of a plan of action. The conferees also believe that it would be beneficial for the Secretary to enter into discussions with a variety of national and regional nonprofit organizations and associations representing state housing agencies and local housing officials. Some of these organizations have considerable expertise in the preservation area, as well as a communication network with local organizations that are concerned with this issue. These discussions should concentrate on the implementation of the voluntary and mandatory sale program, including homeownership opportunities. The conferees are aware with the acquisition program will be determinative of the preservation future of many projects and that in the absence of strong technical assistance support, projects will be lost and local preservation efforts will founder. The training and capacity building process must begin immediately to avert this result.

4. Related Party Rule. The conferees expect the Secretary to develop sensible rules to implement the related party provisions. The Secretary's regulations must distinguish between transactions where an impermissible identity of interest or relationship is present and those transactions which are not tainted. If, for example, an individual is involved in the ownership of an assisted project and also participates, in his or her personal capacity and without compensation, on the board of directors of a nonprofit organization that seeks to acquire a project from the owner, this participation alone should not trigger the application of the related party rule. In other words, participation on the board of directors of any acquiring entity by a person who has a relationship with the seller is not, in and of itself, evidence of "partial control".

5. Windfall Profits Test. The conferees expect that the "windfall profits" test in the Act will only be utilized by the Secretary in exceptional cases. The test was added in response to Administration concerns that the preservation solution should not be used to provide incentives to owners who would not have prepaid, given local market conditions. The conferees share that concern. Yet the conferees strongly believe that the use of appraisals will limit the provision of incentives to owners of housing which have a market alternative other than low income housing.

The conferees expect the Administration to define how the "windfall profits" test will be implemented in notice and comment rulemaking. The conferees expect that the test would be applied in a manner consistent with the process established in this Act. In particular, HUD should apply the test early in the process so that all parties can achieve a definitive outcome within the time frames set forth in the Act.

Subtitle B–Other Preservation Provisions

Section 236 rents. The House amendment contained a provision not included in the Senate bill that would amend the definition of income for Section 236 to exclude amounts not actually received by a family. The conference report contains the House provision.

Advances for Capital Improvements. The House amendment contained a provision not included in the Senate bill that would allow HUD to repay owners for advances for capital and operating loss expenditures made by them for the benefit of projects assisted under sections 226 and 221 of the National Housing Act. The repayment would be made in the form of incremental rent increases. The conference report contains the House provision with an amendment to restrict the provision's coverage to advances for capital improvements and to phase in rent increases in accordance with the Low Income Housing Preservation and Resident Homeownership Act. The conferees intend that the authority granted to the Secretary in this section be used only under special circumstances in which no other existing means to finance needed capital improvements can be used. The conferees note that the Secretary has at his disposal existing below market interest rate loan programs to finance necessary rehabilitation in subject properties. As a consequence, the conferees wish to specify that the discretion granted by this section shall be used by the Secretary only when owners have requested assistance but not received it through the Flexible Subsidy

program or other programs that could provide such capital (such as Section 241(d) loan insurance) and where the owner can certify to the Secretary's satisfaction that the interest rate to be paid on the advance and the term of the advance itself will be less costly to HUD and require smaller rent increases than other alternatives available to the owner, such as third party loans. In agreeing to permit interest to be paid on such advances through increased rents the Secretary shall ensure that the interest rate and terms of the advance are reasonable and fair and are not more costly than the rates and terms commonly available for such loans through bona fide third party arrangements. Moreover, the conferees expect the Secretary to make such adjustments as necessary to existing Section 8 contracts in the properties to assure that tenant payments are not increased as a result of this section and that where Section 8 contracts are not in place, Section 8 assistance will be made available to income eligible residents to the extent that such rent increases as provided for in this section would cause such residents' rents to rise above 30 percent of their adjusted gross income. In properties where there is no section 8 assistance and income eligible residents are already paying in excess of 30 percent of their adjusted gross income for rent, then the conferees expect the Secretary to withhold approval of further rent increases subject to this section.

The conferees intend that this provision permit rent increases only for necessary capital improvements, not to cover the costs of correcting deferred maintenance by the owners. Any such increases should be limited to those approved by HUD after tenants receive notice and comment rights under existing law, which should also be directed to the necessity of the improvement. Once the advance has been recovered the rent should decrease by the amount of the increase that was due to the advance.

The conferees also note that many of the projects to which this section applies may also be eligible for additional incentives under the provisions of the Low Income Housing Preservation and Resident Homeownership Act contained in this Act. The conferees do not expect the Secretary to approve higher rents for payment of interest on advances for any projects that are eligible to receive incentives under these provisions. Rather, the conferees expect necessary rehabilitation and capital improvement needs to be considered and resolved through the negotiation of new incentives or through the sale of the property to new, bona fide third party owners who will preserve the housing's low income character for its remaining useful life.

Management and Preservation of Federally Assisted Housing. The Senate bill contained a provision not contained in the House amendment to require tenants living in Section 236 and 221(d)(3) housing whose incomes exceed 80 percent of area median income to pay as rent the lower of the following amounts: (1) 30 percent of the tenant's adjusted monthly income; or (2) the relevant fair market rent established under Section 8 for the area in which the housing is located. The conference report contains the Senate provision. The conferees intend that any rent increases be phased in accordance with the rules established under section 222(a) of the Low Income Housing Preservation and Resident Homeownership Act of 1990. The change in rent rules would apply to all Section 236 and 221(d)(3) housing, including housing which has received flexible subsidy assistance under Section 201 of the Housing and Community Development Amendments of 1978.

Assistance to Prevent Payment under State Mortgage Programs. The House amendment contained a provision not contained in the Senate bill to assist States in preserving State-subsidized affordable housing that is subject to loss through mortgage prepayments. The conference report contains the House provision.

TITLE VII–RURAL HOUSING

Purpose Clause. The Senate bill contained a provision not included in the House amendment that established purposes of the title to reaffirm the national commitment to expand affordable housing in rural areas; to promote full use of the Section 502 program by very low income people through a partially deferred mortgage program; and to improve the quality of affordable housing in underserved rural areas with high concentrations of poverty and substandard housing. The conference report does not contain the Senate provision, except to the extent that the purpose of serving underserved areas has been amended and inserted under the section titled Underserved Areas.

Authorizations

Loan insurance and loan guarantee. The House amendment contained a provision that provided the Secretary of Agriculture with aggregate loan insurance and guarantee authority of $2,091,200,000 for FY 1991. The Senate bill contained a provision

that provided aggregate amounts including: aggregate loan insurance and guarantee authority of $2,160,000,000 for FY 1991; $2,246,400,000 for FY 1992; and $2,336,256,000 for FY 1993. The conference report contains an authorization for aggregate loan insurance and guarantee authority of $2,125,800,000 for FY 1991 and $2,217,150,000 for FY 1992.

Section 502. The House amendment contained a provision that authorized Section 502 loans at $1,325,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 502 loans at $1,457,465,000 for FY 1991; $1,515,764,000 for FY 1992; and $1,576,394,000 for FY 1993. The conference report contains an authorization for Section 502 loans at $1,391,300,000 for FY 1991 and $1,451,100,000 for FY 1992.

The House amendment contained a provision not included in the Senate bill that authorized a new loan guarantee program for low and moderate income borrowers. The conference report contains an authorization for 502(h) at such sums as are appropriated. The committee's intent for providing a separate authorization for 502(h) is to insure that funds appropriated under this new program for low and moderate income borrowers do not count under the authorization ceiling for insured and direct loans for low income borrowers, as authorized under 502.

Section 504. The House amendment contained a provision that authorized Section 504 improvement loans at $12,000,000 in FY 1991. The Senate bill contained a provision that authorized Section 504 improvement loan at $11,715,000 for FY 1991; $12,184,000 for FY 1992; and $12,671,000 for FY 1993. The conference report contains an authorization for Section 504 loans at $11,900,000 for FY 1991 and $12,400,000 for FY 1992.

Section 514. The House amendment contained a provision that authorized Section 514 farm labor housing loans at $12,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 514 farm labor housing loans at $11,870,000 for FY 1991, $12,344,000 for FY 1992 and $12,839,000 for FY 1993. The conference report contains an authorization for Section 514 loans at $12,000,000 for FY 1991 and $12,500,000 for FY 1992.

Section 515. The House amendment contained a provision that authorized Section 515 rental housing loans at $740,200,000 for FY 1991. The Senate bill contained a provision that authorized Section 515 rental housing loans at $677,840,000 for FY 1991, $704,954,000 for FY 1992 and $733,152,000 for FY 1993. The conference report contains an authorization for Section 515 loans at $709,000,000 for FY 1991 and $739,500,000 for FY 1992.

Section 523 mutual housing. The House amendment contained a provision that authorized Section 523(b)(1)(B) mutual housing and self-help loans at $1,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 523(b)(1) mutual housing and self-help loans at $520,000 for FY 1991, $540,000 for FY 1992 and $562,000 for FY 1993. The conference report contains an authorization for Section 523 loans at $800,000 for FY 1991 and $800,000 for FY 1992.

Section 524. The House amendment contained a provision that authorized Section 524 site loans at $1,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 524 site loans at $590,000 for FY 1991, $614,000 for FY 1992 and $638,000 for FY 1993. The conference report contains an authorization for Section 524 loans at $800,000 for FY 1991 and $850,000 for FY 1992.

Authorizations for appropriations

Section 502(f)(1). The House amendment contained a provision not included in the Senate bill to finance the difference between the appraised value and the costs of land and building for single family new houses in remote rural areas. The conference report contains a new grant authority at $1,000,000 for FY 1991 and $1,100,000 for FY 1992.

Section 504. The House amendment contained a provision that authorized Section 504 grants at $18,000,000 for FY 1991. The Senate bill contained a provision that authorized Section 504 at $19 million for FY 1991; $19,760,000 for FY 1992 and $20,550,000 for FY 1993. The conference report contains an authorization for Section 504 grants of $20,200,000 for FY 1991 and $21,100,000 for FY 1992.

Section 509(c). The House amendment contained a provision that provided grants for correcting defective housing under Section 509(c) in the amount of $1,000,000 for FY 1991. The Senate bill contained a provision that provided such grants under Section 509(c) in the amount of $520,000 for FY 1991, $540,000 for FY 1992, and $562,000 for FY 1993. The

conference report contains an authorization for Section 509(c) of $550,000 for FY 1991 and $600,000 for FY 1992.

Section 511. The Senate bill contained a provision not included in the House amendment that allocated such sums as are necessary to meet notes and other obligations equal to the aggregate of contributions and credits on principal due on Section 503 loans and any interest due on similar notes or other obligations. The conference report contains the Senate provision.

Section 516. The House amendment contained a provision that authorized Section 516(a–j) farm labor rental assistance at $21,296,000 for FY 1991. The Senate bill contained a provision that authorized Section 516(a–j) at $20,340,000 for FY 1991, $21,154,000 for FY 1992 and $22 million for FY 1993. The conference report contains an authorization for Section 516 at $20,900,000 for FY 1991 and $21,700,000 for FY 1992.

The House amendment contained a provision not included in the Senate bill that provided grants for the construction, rehabilitation, and acquisition of housing for migrant farmworkers and rural homeless. The conference report contains an authorization for this new provision under 516(k) at $10,000,000 for FY 1991 and $10,500,000 for FY 1992.

Section 523(f). The House amendment contained a provision that authorized Section 523(f) mutual and self-help housing grants at $8,979,000 for FY 1991. The Senate bill contained a provision that authorized Section 523(f) at $14,340,000 for FY 1991, $14,914,000 for FY 1992 and $15,510,000 for FY 1993. The conference report contains an authorization for Section 523(f) at $13,400,000 for FY 1991 and $13,900,000 for FY 1992.

Section 533. The House amendment contained a provision that authorized Section 533 housing preservation grants at $29,906,000 for FY 1991. The Senate bill contained a provision that authorized Section 533 at $25,800,000 in FY 1991, $26,832,000 for FY 1992; and $27,906,000 for FY 1993. The conference report contains an authorization for Section 533 at $29,600,000 for FY 1991 and $30,800,000 for FY 1992.

Rental assistance payment contracts. The House amendment contained a provision that authorized Section 521 rental assistance payment contracts to total $400,000,000 for FY 1991. The Senate bill contained a provision that authorized rental assistance up to $395,000,000 for FY 1991; $410,800,000 for FY 1992; and $427,232,000 for FY 1993. The conference report contains an authorization for Section 521 at $397,000,000 for FY 1991 and $414,100,000 for FY 1992.

Supplemental rental assistance contracts. The House amendment contained a provision not included in the Senate bill that authorized supplemental rental assistance contracts to total $5,200,000 for FY 1991. The conference report contains the House provision with an amendment to provide an additional authorization for FY 1992 of $5,500,000.

Extension of authority. The Senate bill contained a provision not included in the House amendment that extended rural rental rehabilitation demonstration under Section 17 of the 1937 Act until September 30, 1992. The conference report does not contain the Senate provision. The conferees intend that rental rehabilitation activities in rural areas be undertaken through the housing preservation grant program which FmHA has yet to implement for rental properties.

The House amendment contained a provision that extended Section 515(b)(4) rental housing loan authority and Section 523 mutual and self-help loan authority until September 30, 1991. The Senate bill contained a provision that extended Section 515 loan authority and Section 523 mutual and self-help loan authority until September 30, 1993. The conference report contains the House provision.

Effect of Foster Care Children in Determination of Family Composition and Size. The House amendment contained a provision not included in the Senate bill that establishes that a child's temporary absence from a home due to placement in foster care would not effect the family composition and size. The conference report contains the House provision.

Escrow accounts. The Senate bill contained a provision not included in the House amendment that required the Secretary to pay interest rates on escrow accounts comparable to conventional lenders where the state prescribes interest to be paid. The conference report contains the Senate provision.

Remote rural areas. The House amendment contained a provision not included in the Senate bill that required the Secretary to consider the actual cost of land and buildings as sufficient security for a Section 502 home loan in a remote rural area or for a

borrower who lives or works in a remote rural area. The conference report contains the House provision with an amendment which provides for a grant program, subject to appropriations, to make up the difference between the appraised value and the costs of land and building for single family new houses in remote rural areas.

The House amendment contained a provision not included in the Senate bill that prohibited the Secretary from refusing to make or insure any FmHA Section 502 loans on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote. The amendment made by this section would apply with respect to classification of rural areas for Fiscal Year 1991 and after. The conference report contains the House provision. The conferees are aware that there is a legitimate concern that security in remote rural areas may not be sufficient for the federal mortgage. In such situations and where the appraised value of a home is less than the cost of land and construction, the conferees intend that the Secretary provide grants for the difference between the appraised value and cost. The Secretary is directed to promulgate interim rules within 120 days of enactment.

Deferred mortgage program. The House amendment contained a provision that permitted the Secretary to defer Section 502 loan payments on a demonstration basis for families who do not have sufficient income to repay Section 502 loans but are otherwise qualified under Section 502. The Secretary could defer mortgage payments beyond the affordable amount at 1% interest, but no deferred payment could exceed 50% of the amount of the payment due at 1% interest. Deferred mortgages would return to normal payment status when the borrower's ability to repay improves and deferred amounts are subject to recapture. Subject to appropriations, no more than 10% of the amount approved for Section 502 loans would be authorized to be used for deferred mortgages in FY 1991.

The Senate bill contained a similar provision that provided for a deferral of not more than 20% of principal if (1) the borrowers reside in a state where 10% or more of set asides have not been obligated since 11/30/83; (2) the deferral is necessary to enable borrower to make payments and the borrower can be expected to amortize fully deferred principal over the remaining life of the loan. Any increases in mortgage payments would be applied first to repayment of deferred principal with interest and then to an increase in interest on the loan. Interest on deferred principal would remain at 1% until the deferral has been repaid in full.

The conference report contains the House provision with an amendment which provides authority in fiscal years 1991 and 1992 for FmHA to defer up to 25 percent of Section 502 mortgage payments at 1 percent interest for very low income families or persons otherwise deemed unable to afford the regular payment. In addition, the committee adopted technical amendments recommended by FmHA. In implementing this program the Secretary shall promulgate interim rules no later than 120 days after enactment, and shall provide the authorizing committees with a preliminary report on the demonstration results no later than 90 days prior to the end of fiscal year 1992 and a final report no later than 120 days after the end of that fiscal year.

Section 502 loan guarantee program. The House amendment contained a provision not included in the Senate bill with respect to the Section 502 loan guarantee program.

The House provision established findings and purposes, and amended the existing Section 502 FmHA program by authorizing for up to 100% of the loan amount, loan guarantees for moderate-income borrowers whose incomes do not exceed area median incomes.

The conference report contains the House provisions amended to provide a separate authorization. This new subsection directs the Secretary to establish a program for the guarantee of single-family housing loans and provides in part that "loans shall be guaranteed in an amount equal to 90 percent of the loan." The conferees intend by this language to give the agency flexibility in the use of different methods of structuring its guarantees, so long as the agreement would result in the Secretary bearing 90 percent of the loss of the total amount of the total of the loan so guaranteed. For example, the Secretary might construct a system in which 100 percent of the first portion of the loss would be borne by the Secretary and a lesser percentage of the remaining loss would be repaid to the lender. We encourage the Secretary to consult with interested groups in the private sector to determine how best to construct the guarantee program so as to create mortgage-backed securities which will be attractive to investors and thus maximize the capital available flowing through to finance homes for moderate and low income borrowers.

Foreclosure procedures. The House amendment contained a provision not included in the Senate bill that required the Secretary of Agriculture to follow the mortgage foreclosure procedures of the state where a property is located to the extent that the state's procedures are more favorable to the borrower than the procedures that the Secretary would otherwise follow when foreclosing a mortgage. The conference report contains the House provision.

Housing in underserved areas. The House amendment contained a provision that required the Secretary of Agriculture to designate 50 counties and communities in FY 1991 and 100 counties and communities in FY 1992 as targeted underserved areas that have severe unmet housing needs. The Senate bill contained a similar provision except that the Secretary would be authorized to designate 100 underserved counties in FY 1991 and 1992. The conference report contains the Senate provision with an amendment to include purposes for the program which highlight the lower Mississippi Delta region and incorporate provisions related to colonias which are deemed to be underserved areas in this section of the conference report.

Definition of underserved areas. The House provision defined underserved areas as those which over the last 10 years have received a substantially lower than average FmHA assistance than other counties and communities in the state and have 20% or more of their population at or below poverty level and 10% or more in substandard housing. The Senate bill defined eligible counties as those where between 1986–1988, the number of FmHA assisted units for families below 80% of median is less than the % assisted in the state and those where there is a high combined number of rural households below 50% of median as compared to the county and number of substandard housing compared to the county. The conference report contains the House provision with an amendment to consider the previous 5 years funding rather than 10 years in order to reflect more accurately the level of assistance now being provided in each area.

Preference. The House provision established preferences for counties within the lower Mississippi delta. The conference report contains the House provision with an amendment to replace the preference as stated with language that gives preference to projects in designated underserved counties that have a poverty rate of 28% or greater and a substandard housing rate of 13% or greater. The conferees intend that FmHA will redesignate these counties as of the 1990 Census. To ensure the greatest possible benefit to all eligible counties, the conferees expect that FmHA will designate these underserved areas on a rotating funding basis so that all eligible counties have an opportunity to utilize this program before any designated county is funded for a second time.

Funding set aside for targeted underserved areas. The House provision required the Secretary to set aside and reserve 3.5% of the aggregate amount of rural housing lending authority in FY 1991 and 5% in FY 1992 for such designated areas. The Senate bill would establish set-asides for targeted areas as: $25 million for Section 515, $40 million for Section 502 and $1 million each for Section 504 loans and grants in FYs 1991, 1992, 1993. The conference report contains the House provision with an amendment to eliminate the set-aside for the Lower Mississippi Delta and to include colonias as an eligible area.

Colonias. The House amendment included a provision that was not included in the Senate bill that would give priority within a state's allocation for applications serving colonias in the four border states. Colonias would receive priority for all FMHA Title V funds, without limitation to a state's allocation. The conferees consolidated a version of this provision into the Underserved Areas program. California, New Mexico, Arizona, and Texas would each be required to give priority on 5% of their state's allocation for approvable applications serving colonias if the state has not used its entire allocation during the previous two fiscal years. Those border states that have used their entire state allocation of FmHA funding during the two previous fiscal years would be eligible to participate in the Underserved Areas program for purposes of assisting colonias. This funding would be in addition to any designated counties in the state. In fact, approvable applications serving colonias would receive a priority up to the amount equal to 5% of the state's allocation from which the application was submitted.

Reallocation. The House provision provided that the preference for the Lower Mississippi Delta terminate on August 1 of the fiscal year and the unused funds be available to all underserved areas. Any assistance reallocated on August 1 that is unused on September 1 of a fiscal year shall be reallocated under the laws and regulations of the applicable FmHA programs, notwithstanding this provision. The Senate bill made the unused amounts subject to pooling procedures established by the Secretary. The conference report contains the House provision with an amendment to delete references to the Lower Mississippi Delta region, include reallocations for the colonias, and give the Secretary the authority to design a reallocation procedure rather than specifying dates in legislative language. The committee's intent is to insure that eligible applicants will have a reasonable opportunity to take full advantage of the reallocated funds while giving all applicants ample time to participate prior to reallocation.

Preproject planning assistance. The House provision authorized the Secretary to provide advances to nonprofit organizations and public entities for 80% of the customary costs of preparing and submitting housing applications. The Senate bill provided project preparation grants rather than repayable advances.

The House provision required that repayments be made from loan proceeds but could be deferred or waived or could be forgiven. The Senate bill required the Secretary to adjust loan amount to reflect the grant.

The House amendment contained a provision not included in the Senate bill that required the Secretary to establish guidelines for the application which would be required to include a budget and documentation that funds required for the project but not to be provided by the Secretary would be available.

The House amendment contained a provision requiring the Secretary to approve, or provide a written decision, regarding loans within 60 days of receipt of the applications.

The House provision required that preferences be given to applications made with advances or to residents of underserved areas. It would establish applicant eligibility for public and private nonprofit organizations.

The conference report contains the Senate provision with an amendment to add the requirement that the Secretary establish guidelines for the application, including applicant eligibility, and to provide decisions within 60 days of application.

Rural Housing Inventory. The House amendment contained a provision not included in the Senate bill that provided authority to transfer Section 502 inventory property as rental projects under Section 514. The conference report contains the House provision.

Appeal rights. The Senate bill contained a provision not included in the House amendment that prohibited the Secretary from excluding from the requirements for written notice and appeal decisions that are not based on objective standards contained in published regulations. The conference report contains the Senate provision.

Section 515 Loans

Equity take out loan cap. The House amendment contained a provision not included in the Senate bill that required that equity takeout loans be limited by the appraised value of the property, not the original mortgage amount for post 12/15/89 loans. The conference report contains the House provision.

Applicability of equity takeout loan account assessment to low income tenants. The House amendment contained a provision that exempted from the annual assessment for reserve account purposes, units which are occupied by low income tenants or those paying in excess of 30% of their income. The Senate bill contained a provision that required new moderate and assisted low income tenants to pay basic rent plus yearly $2.00 assessments. New unassisted but eligible low income tenants would pay only the basic rent plus $2.00. The conference report contains the House provision.

Effective date of HUD Reform for equity take out loans. The House amendment contained a provision not included in the Senate bill that changed the effective date of HUD Reform equity takeout provisions from 180 days after enactment to 12/15/89. The conference report contains the House provision. This provision contains technical amendments to the Department of Housing and Urban Development Reform Act of 1989 related to the prohibition of prepayment of new FmHA Section 515 rural rental housing loans and the authority provided the Secretary to guarantee supplemental equity takeout loans after the 20th anniversary of a project.

It was the intent of the 1989 Act and is the intent of this Act that the Secretary is expected to approve and guarantee the equity takeout loans once the conditions and determinations required by the 1989 Act are satisfied. The requirements are similar to and consistent with the prepayment provisions of the Housing and Community Development Act of 1987 which, in the Committee's view, have worked very well.

The FmHA borrower should expect the timely processing and approval of guaranteed equity takeout loans after the specified

requirements of the legislation have been met.

Reuse of Section 515 loan authority. The Senate bill contained a provision not included in the House amendment that provided that amounts appropriated for Section 515 shall remain available until expended. The conference report contains the Senate provision.

Section 515 loan assumption. The House amendment contained a provision not included in the Senate provision that permitted assumption or transfer of Section 515 loan obligations. The conference report contains the House provision.

The House amendment contained a provision that allowed transfer of Section 515 loan obligation authority without regard to fiscal year limitations. The Senate bill contained a similar provision making funds eligible until expended. The conference report contains the Senate provision amended to blend with the House provision regarding the assumption or transfer of Section 515 loan obligations.

Nonprofit set-aside. The Senate bill contained a provision not included in the House amendment that authorized the Secretary to set aside 7% in FY 1991, 8% in FY 1992, and 10% in FY 1993 of funds for Section 515 projects for nonprofits sponsors. Any unused funds would be subject to pooling. The conference report contains the Senate provision with an amendment which reserves 7% in FY 1991 and 9% in FY 1992 of Section 515 funds for nonprofit sponsors. Nonprofit sponsors are those organizations which are exempt from federal taxes under section 501(c)(3) and section 501(c)(4) of the Internal Revenue Code and whose principle purposes include the planning, development, and management of low income housing. Such sponsors include private, nonprofit organizations as well as consumer cooperatives and Indian tribes. The committee amended the Senate provision by establishing that only organizations that are wholly owned and operated by a nonprofit group may participate. It is the committee's intent to avoid any opportunity for other eligible organizations under 515 to abuse the set aside by creating nonprofit sponsors of their own with which to co-venture.

The conference report also establishes a method for the administration of the set aside. The greater of the percentage to be set aside or $750,000 will be available in each state. For those states in which the percentage to be set aside is less than $750,000, that amount will be pooled at the national office. Nonprofits from states affected will compete for these funds. All set aside funds unobligated first must be made available to all eligible applicants within a state and then returned to the national pool. The committee's intent is to insure that eligible applicants will have a reasonable opportunity to take full advantage of the reallocated funds while giving all applicants ample time to participate prior to reallocation.

The conferees recognize that many nonprofit organizations have the capability to plan, develop, and manage rural rental housing projects. However, the conferees understand that because of the extensive backlog of eligible applications, there is routinely a two- to three-year waiting period before receiving assistance. During this period a sponsor must pay for technical and legal fees, as well as servicing cost related to the building site for the project. Few nonprofit organizations have the financial capability to absorb these costs for such an extended period of time. As the demand for rural rental housing loans has increased in recent years, nonprofit participation has declined.

The set aside will establish a minimum level of participation for nonprofits. It will make it possible for those with minimal resources, but with the ability to plan and carry out an eligible project, to receive assistance.

The conferees note that the 1987 Housing Act provided FmHA with authority to provide packaging fees for nonprofit organizations preparing rural rental housing applications and expect FmHA to work to coordinate such packaging assistance with the set aside.

Housing for rural homeless and migrant farmworker program. The House amendment contained a provision not included in the Senate bill that targeted assistance to rural homeless and migrant farmworkers by providing financial assistance for affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals). The House provision authorizes $10,000,000 for Fiscal Year 1991 for this program.

The conference report contains the House provision with an amendment that only permits housing the homeless who are not migrants on an emergency and temporary basis, in the off-season and requires FmHA to complete a study regarding the extent of the problem of homelessness in rural areas with recommendations for future legislation and programs. This amends

Section 516 of the Housing Act of 1949 with a separate appropriation.

This provision is in response to two different, but complementary, concerns. First, under current law, the Secretary may provide a grant of up to 90% of the costs of developing housing for farmworkers. The remainder of the funds is to be provided through private credit. The conferees have learned that, in reality, the split between grant and loan amount for most projects has been 60% grant and 40% loan. This has worked satisfactorily for farmworkers who occupy the housing for 10–12 months because such projects bring in adequate rental income to make the units viable. However, this program has not been effective in creating affordable housing opportunities for seasonal workers who may only occupy the units for 2–4 months each year. Such housing is not available under existing programs because the debt burden on such properties require nearly year-round occupancy. Second, the conferees recognize the increasing problem of homeless individuals and families in rural areas, a problem which is not satisfactorily addressed by McKinney Act assistance. In responding to this urgent need, the conference committee expects that the housing built for seasonal workers under this provision will be made available as shelter on a temporary emergency basis.

Rural area classification. The House amendment contained a provision not included in the Senate bill that redefined rural and rural areas to mean any open country or any place, town, village or city which is not (except in the case of Pajaro, California and Guadalupe, Arizona) part of or associated with an urban area and which has: (1) a population not in excess of 10,000 if it is rural in character; or (2) a population in excess of 10,000 but not in excess of 25,000, but must also be rural in character, not contained within a standard metropolitan statistical area; and has a serious lack of mortgage credit for lower and moderate income households as determined by FmHA and HUD. The conference report contains the House provision with an amendment to grandfather all presently eligible communities under 20,000 which as a result of the 1990 census do not exceed 25,000 in population, are rural in character, and have a serious lack of mortgage credit.

Use of rental overages. The Senate bill contained a provision not included in the House amendment that permitted rent overages to be used as supplemental rental assistance for very low and low income families not receiving rental assistance. Subject to appropriations, the conference report contains the Senate provision. However, the conferees do not intend that the incremental appropriations for rental assistance should be reduced to reflect these rental overages made available to owners.

Housing preservation grants. The Senate bill contained a provision not included in the House amendment that permitted the Secretary to retain and reobligate grants obligated but not expended in any fiscal year. The conference report contains the Senate provision.

Reciprocity in approval of housing subdivisions among federal agencies. The House amendment contained a provision not included in the Senate bill that extended for 6 months the required HUD acceptance of VA certificate of reasonable value as approval of an entire subdivision. The conference report contains the House provision with a technical amendment relating to a gap in applicability.

Technical amendments. The House amendment contained two technical amendments not included in the Senate bill. The first defined “assistance” in accountability provisions. It limited “assistance” to grants, loans, etc., for original development costs, not subsequent loans. It excluded equity takeout loans from accountability provisions of HUD Reform Act. The second technical amendment that the House amendment contained established a prepayment prohibition. It amended prepayment prohibition before 50 years to apply only to new Section 515 loans not subsequent loans. The conference report contains the House provisions.

TITLE VIII–HOUSING FOR PERSONS WITH SPECIAL NEEDS

Section 202 housing for elderly and handicapped, in general. The Senate bill included a major restructure of the Section 202 program for elderly and disabled persons. The Section 202 production program for the elderly would be substantially revised to ensure that housing developed under the program would be designed to accommodate the special physical and other needs of elderly persons. The Section 202(h) program for persons with disabilities would be fully separated from the elderly program to allow the program to better address the needs of such persons. The House amendment made changes to the existing section 202 program but did not include the financing restructure. The conference report contains the Senate’s major revisions to the 202 program with an amendment to implement the changes in FY92. Minor revisions included in the House amendment and the Senate bill would be implemented upon enactment in FY91.

Subtitle A–Supportive Housing for the Elderly

Purposes. The Senate bill contained a provision not included in the House amendment that would provide that the purpose of the program is to enable elderly persons to live with dignity and independence by expanding the supply of affordable housing designed to accommodate the special needs of elderly persons and providing supportive services that are tailored to the needs of elderly persons occupying such persons. The conference report contains the Senate provision.

General authority. The Senate bill contained a provision not included in the House amendment that would provide assistance in the form of capital advances and project rental assistance to private nonprofits and consumer co-ops to be used for construction, reconstruction, moderate or substantial rehabilitation, including the cost of real property acquisition, site improvement, conversion, demolition, relocation and other expenses that the Secretary determines are necessary. The conference report contains the Senate provision amended to add the House provision allowing the acquisition of RTC properties.

Capital Advances. The Senate bill contained a provision not included in the House amendment that would define capital advances as no interest loans to be repaid only if the housing is no longer available for very low-income elderly persons. Advances would be calculated within development cost limitations. The conference report contains the Senate provision.

Project rental assistance. The Senate bill contained a provision not included in the House amendment that would require project rental assistance to include those operating costs not covered by rental income. The annual contract amount for any project would not exceed the initial annual project rents plus any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project would remain available until the expiration of the contract and adjustments could be made to provide for reasonable project costs. The conference report contains the Senate provision.

Tenant Rents. The Senate bill contained a provision not included in the House amendment that would establish tenant rents as the highest of the following amounts: 30% of a person's adjusted monthly income, 10% of a person's monthly income, or the shelter rent payment as determined by welfare assistance if the person receives such assistance. The conference report contains the Senate provision.

Use Restriction. The Senate bill contained a provision not included in the House amendment that would require all units to be available for occupancy by very-low income persons for at least 40 years. The conference report contains the Senate provision.

Rental assistance contract term. The Senate bill contained a provision not included in the House amendment that would establish the initial term of contracts for project rental assistance at 20 years. The bill would require the Secretary, to the extent approved in appropriations acts, to extend any expiring contract for at least a five-year term. To facilitate the extension of expiring contracts, the bill would authorize the Secretary to make commitments to extend such contracts during the year prior to their expiration date. The conference report contains the Senate provision.

Application process. The Senate bill contained a provision not included in the House amendment that would require applications to include: a description of the proposed housing; of the assistance requested; of matching resources; of the intended population to be served, the supportive services to be offered, the manner in which the services would be offered including residential supervision for frail elderly, and the sources and funding for the supportive services; State or local certification regarding services; certification of compliance with the affordable housing strategy required under Section 105 of this Act; and other information or certifications that the Secretary deems necessary. The conference report contains the Senate provision.

Selection criteria. The Senate bill contained a provision not included in the House amendment that would require selection criteria established by the Secretary to include the capability of the applicant to develop and operate the proposed housing; the need for supportive housing in the area to be served; the management efficiency of the unit mix and the cost effectiveness of the delivery of supportive services; the compatibility of the design with the special physical needs of the elderly; assurances of the availability of the supportive services on a consistent and long term basis; the extent to which the proposed design of the housing would accommodate the provision of supportive services for the intended residents over the useful life

of the property and other factors to be determined by the Secretary. The conference report contains the Senate provision.

Supportive services. The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that the housing assisted under this program provides supportive services which are tailored to the needs of the category or categories of elderly persons occupying such housing, including meals, housekeeping, transportation, personal care, health services and other services. The conference report contains the Senate provision.

Services for nonresidents. The Senate bill contained a provision not included in the House amendment that would allow services to be made available to nonresidents if it would be not adversely affect the cost effectiveness or the operation of the project. The conference report contains the Senate provision.

Applicability of project retrofit. The Senate bill contained a provision not included in the House amendment that would require the Secretary to apply the requirements of Project Retrofit to Section 202 projects for frail elderly. The conference report contains the Senate provision amended to reflect changes including the change of name from Project Retrofit to the revised congregate housing services program.

Local coordination of services. The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that owners can assess, coordinate, and finance a supportive services program for the long term. Costs of supportive services and service coordinators for the frail elderly would be borne by the project and project rental assistance and subject to the requirements of Project Retrofit. The conference report contains the Senate provision.

Development cost limitations. The Senate bill contained a provision not included in the House amendment that would require the Secretary to periodically publish development cost limitations by market area which reflect the cost of construction up to codes; the cost of movables; the cost of special design features including accessibility and meeting the physical needs of elderly persons; congregate space; cost of meeting energy efficiency standards if the housing is newly constructed; and the cost of land. The conference report contains the Senate provision amended to add language on RTC properties.

Annual adjustments. The Senate bill contained a provision not included in the House amendment that would provide for annual adjustments in development costs. The conference report contains the Senate provision.

Incentives for savings. The Senate bill contained a provision not included in the House amendment that would provide an incentive for development costs which are less than the development cost limitations. An owner could retain 50% of the savings in a special housing account. An owner could receive 75% of the savings for the account if energy efficiency features are added in the project that: exceed energy efficiency standards promulgated by the Secretary; substantially reduce life cycle costs of the housing; reduce gross rent requirements; enhance tenant comfort and convenience. The special account could be used to supplement supportive services funding or replacement reserves or for other purposes determined by the Secretary. The conference report contains the Senate provision.

Design flexibility. The Senate bill contained a provision not included in the House amendment that would require the Secretary to give owners the flexibility to design housing appropriate to their location and the population to be served. The conference report contains the Senate provision.

Use of funds from other sources. The Senate bill contained a provision not included in the House amendment that would allow owners to use nonfederal funding for amenities which could not be financed with the advance and is not taken into account in determining the amount of federal assistance or the rent contribution of tenants. The conference report contains the Senate provision.

Tenant selection procedures. The Senate bill contained a provision not included in the House amendment that would require the owner to adopt written tenant selection procedures satisfactory to the Secretary and to promptly notify rejected applicants in writing of the grounds for any rejection. The conference report contains the Senate provision with an amendment to make this information available to the appropriate local agency serving the elderly.

Technical assistance. The Senate bill contained a provision not included in the House amendment that would require the Secretary to make available technical assistance. The conference report contains the Senate provision.

Civil rights compliance. The Senate bill contained a provision not included in the House amendment that would require compliance with Federal, state and local civil rights laws. The conference report contains the Senate provision.

Matching requirement. The Senate bill contained a provision not included in the House amendment that would require applicants to contribute at least 5% either in cash, value of land or real or personal property, or present value of supportive services committed by private resources. The conference report contains the Senate provision amended to retain existing law except to raise the minimum capital investment to $25,000. The conferees understand that the existing regulations on owner deposit would otherwise be retained. As a reserve it could be held in escrow for no more than 3 years.

Reduction or waiver. The Senate bill contained a provision not included in the House amendment that would reduce or waive the matching requirement if the sponsor is not affiliated with a national nonprofit. The Secretary could reduce or waive the matching requirement for individual applicants if necessary to achieve the purposes of this section provided the applicant demonstrates that it has the capacity to manage and maintain the housing. The conference report contains the Senate provision with an amendment to strike the automatic waiver for an unaffiliated nonprofit.

Appeals. The Senate bill contained a provision not included in the House amendment that would require the Secretary to notify an owner not less than 30 days prior to cancellation of any reservation of assistance. The bill would provide for appeal of cancelled loan authority by an owner within 30 days, requiring response in 45 days. The conference report contains the Senate provision with an amendment to add that in considering applications for assistance under section 202, the Secretary could not reject an application on technical grounds without giving notice of that rejection and the basis therefore to the applicant and affording the applicant an opportunity to respond. The preparation and submission of applications for the section 202 program require the investment of substantial time and money by the applicant. Moreover, they often involve the negotiation of commitments from churches, foundations, and local government. An application that is rejected on technical grounds because of a mistake of fact or interpretation by HUD is a loss to the program, to the applicant and to the elderly residents that the project would have served. Accordingly, the Secretary is directed to afford the applicant notice and an opportunity to respond when an application is rejected on technical grounds before applications are submitted to HUD headquarters for final review. This is not intended to require advance notice of proposed or final project rankings or to require the Secretary to consider matters that occur after submission of the application.

Davis-Bacon. The Senate bill contained a provision not included in the House amendment that would require Davis-Bacon wage rates for projects for 12 or more persons except if the labor is volunteer labor. The conference report contains the Senate provision.

Definitions. The Senate bill contained a provision not included in the House amendment that would establish the definitions for “elderly person”, “frail elderly”, and “private nonprofit organization”. The conference report contains these Senate definitions. (other definitions)

Conforming amendment. The Senate bill contained a provision not included in the House amendment that would delete the 202 program from the fair share allocation requirements. The conference report contains the Senate provision.

General authorizations. The Senate bill authorized capital advances of $628,000,000 for FY 1991, $659,000,000 for FY 1992 and $685,360,000 for FY 1993. The Senate bill provided for a revolving fund for the appropriated amounts, any proceeds for notes and obligations, and for any repayments. The Senate bill reserved authority, to the extent approved in appropriations acts, in the aggregate of $346 million in FY 1991, $353 million in FY 1992, and $377,520,000 for FY 1993 for project rental assistance. Twenty percent of the funds would be allocated to nonmetropolitan areas. The conference report would authorize $659,000,000 for elderly capital advances in FY 1992. Elderly rental assistance would be authorized at $363,000,000 for FY 1992.

Effective date and applicability. The Senate bill contained a provision not included in the House amendment that would permit owners of projects approved under the old section 202 program for which no loan has been executed to elect to be subject to the provisions of the new Section 202 program. If funds from the original reservation remain they would be available for use under this section. The conference report contains the Senate provision amended to require HUD to implement the 202 revisions through notice and comment rulemaking and to delay implementation until FY 1992.

Expedited financing and construction. The Senate bill contained a provision not included in the House amendment that would give HUD the authority to expedite the processing of approved Sec. 202 projects with two adjustments to the approvable maximum loan amount and to the fair market rents. Both adjustments would be subject to cost controls and would apply to projects approved 3 years prior to the enactment of this act which have not been closed and which are in high cost areas. The conference report contains the Senate provision.

Authorization for existing program. The House amendment contained a provision that would extend Section 202 (housing for the elderly or handicapped) borrowing authority through FY 1991 and would authorize $714,237,000 in FY 1991 for Section 202 elderly and disabled loans. The House amendment would also authorize $714,237,000 for 202 elderly and disabled rental assistance in FY 1991. The conference report contains the House provisions amended to authorize $714,200,000 for 202 loan authority in FY 1991.

Congregate housing services program/Project Retrofit

In general. The House amendment contained a provision that would reauthorize the existing congregate housing services program and authorize a new, revised congregate services program. The Senate bill created Project Retrofit to replace the congregate housing services program. The conference report incorporates many of the revisions contained in the Senate bill and the House amendment into the revised congregate housing services program.

Authorization. The House amendment contained a provision not included in the Senate bill that would establish a revised congregate housing services program to be administered by HUD and FmHA for residents of federally assisted housing occupied by older or disabled persons with impairment in two or more activities of daily living (ADL) and/or instrumental activities of daily living (IADL). The conference report contains the House provision amended to require the Secretaries of HUD and FmHA to enter into contracts to provide congregate service programs for eligible residents and/or adapt the housing to better accommodate the physical requirements and service needs of eligible residents.

Findings. The House amendment contained a provision not included in the Senate bill that would establish congressional findings for the revised congregate housing program. The conference report contains the House provision amended to identify the need to redesign units and buildings to meet the special physical needs of the frail elderly persons; identify the need to create congregate space to accommodate services that enhance independent living; change “individuals” to “persons”; and change the term “disabled individual” to “persons with disabilities”.

Purposes. The House amendment contained a provision not included in the Senate bill that would establish the purposes of the program. The conference report contains the House provision with an amendment to incorporate Senate purposes dealing with retrofitting, creation of congregate space and improvement of management capacity.

Contracts. The House amendment contained a provision not included in the Senate bill that would authorize the Departments to enter into three year contracts with states, units of general local government and housing sponsors including nonprofits and public housing agencies in nonparticipating states, and Indian tribes for the establishment of a congregate housing services program and the delivery of supportive services at housing sites. The conference report contains the House provision amended to delete states as the principal grantee. The conference report would establish a 5 year contract for services.

Reservation of funds. The House amendment contained a provision not included in the Senate bill that would provide for reservation funds for this program over the term of contract in the fiscal year in which the contract is approved. The conference report contains the House provision.

Services program. The House amendment contained a provision not included in the Senate bill that would require the services program to be coordinated on site and to provide meal service which meets at least one third of the nutritional needs of eligible residents and other appropriate services to promote and encourage maximum independence among the elderly or disabled persons, including personal care, transportation, chore services, housekeeping, grooming, case management, nonmedical counseling, and medication assistance. Services should reflect the wants and needs of elderly residents. The conference report contains the House provision with amendments to retitle the subsection as “Eligible Activities”; permit, rather than require HUD to fund congregate housing services programs; include personal emergency response systems as

permissible service under a congregate services program; incorporate Section 602(c)(1) of the Senate bill (retrofit and renovation); and incorporate Section 602(c)(2) of the Senate bill (service coordinators).

Eligibility. The House amendment contained a provision not included in the Senate bill that would make services available for a fee which is based on adjusted income of eligible residents. The fees would cover 10% of the cost of the services but could be waived if the elderly person's income is insufficient. The conference report contains the House provision with amendments to clarify that any non-residents receiving services would pay fees equal to the cost of providing the service and incorporate Senate language on eligible residents.

Ineligible residents. The House amendment contained a provision not included in the Senate bill that would permit ineligible residents to receive services if the professional assessment committee, management and service coordinators determine that providing services to ineligible residents would not impede the program. The conference report contains the House provision with an amendment to incorporate Senate language governing provision of services to persons who are not residents of the project.

Eligible housing projects. The House amendment contained a provision not included in the Senate bill that would include public housing, HUD assisted multifamily housing, FmHA rural rental housing and farm labor housing projects as eligible housing projects. The conference report contains the House provision with an amendment to revise the Section 221(d)(3) and 236 definition to conform with the prepayment report language.

Eligible contract recipients. The House amendment contained a provision not included in the Senate bill that would establish the eligible recipients under this program as states and, in non-participating states which have not applied for assistance or have made their intentions known to the Secretaries not to apply, Indian tribes and units of local government, and nonprofit housing sponsors, including public housing agencies. States receiving assistance would establish an advisory committee of not fewer than 13 specified members to assist the state in allocating assistance under this section. The conference report contains the House provision with an amendment to eliminate states as the primary contract recipient. States would be permitted to apply on behalf of owners of eligible low income housing.

Applications. The House amendment contained a provision not included in the Senate bill that would require applications by States to contain a services plan, a certification of matching funds, an allocation plan, the designation of a state administering agency, identify the members of the state advisory committee, and a plan to ensure that subgrantees limit their administrative costs. The non-state application would include a similar services plan, an allocation process to eligible projects, an administering agency designation, Area Agency on Aging concurrence, and a plan to ensure that subgrantees limit their administrative costs. The Secretaries would be required to establish application deadlines and provide notice of award or rejection within 60 days. The conference report contains the House provision with amendments to require applicants who apply for HUD service funds to certify that, during the term of the contract, they would actively seek funds for such services from other sources; and include provision for Secretary awarding contracts within 60 days.

Selection criteria. The House amendment contained a provision not included in the Senate bill that would require the Secretary to select applicants based on selection criteria established by the Secretary, including the types of services provided, the targeting plans for services, the relationship of the proposed service packages to the needs of the elderly and disabled to be served, the adequacy of the service delivery, the qualifications of the assessment committees, the reasonableness and application of a fee schedule, and the accuracy and adequacy of the budget. The conference report contains the House provision with an amendment to include criteria related to rehabilitation and renovation and the extent to which services funding from other sources exceeds required match.

Evaluation and reporting. The House amendment contained a provision not included in the Senate bill that would require the Secretaries to establish, by regulation, procedures to review and evaluate the congregate housing services programs including annual reports submitted by contract awardees evaluating the impact and effectiveness of such programs. The conference report contains the House provision.

Distribution of costs/costs sharing. The House amendment contained a provision not included in the Senate bill that would require states and localities, nonprofit sponsors, public housing agencies and Indian tribes, where the state does not participate, to contribute 50% of the funds to carry out the program. The Federal share of program costs would be 40% and

the elderly participants will contribute 10% of the cost of services. However, the individual's share could be waived where income is insufficient to meet the 10% share. In-kind match would be limited to 10% of the total match and a state could not require a locality to provide more than 10% of the match. For existing CHSP programs, for a period of three years, the cost sharing formula would not apply. CHSP grantees would maintain the share previously contributed prior to enactment of this Act. For all other programs, if the elderly residents could not contribute the full 10% share, the shortfall would be split evenly between the contract recipient and the federal government. The conference report contains the House provision with an amendment to encourage recipients to seek sources of non-HUD funding for services. The conference report would also direct HUD to work with the Department of Health and Human Services to identify such existing sources, and, if appropriate, recommend new sources. A match would be required for rehabilitation if residual receipts are available.

Prohibition of substitution of funds. The House amendment contained a provision not included in the Senate bill that would require the contract recipient to maintain their contributions to providing services to the amounts contributed prior to application under this Act. The conference report contains the House provision.

Distribution in participation. The House amendment contained a provision not included in the Senate bill that would permit the Secretary to renew assistance for any contract recipient that terminates a contract under this subsection before the expiration of the full term of the contract, to the extent that subsequent commitments have not been made for amounts reserved under the contract; and the Secretary concerned could, at any time after termination of the existing contract and before renewal of assistance under the contract reallocate the remaining funds to eligible recipients which apply. The conference report does not contain the House provision.

New participation. The House amendment contained a provision not included in the Senate bill that would prohibit the Secretary, upon termination of any contract with any unit of general local government or local nonprofit housing sponsor, from renewing such contract (or entering into any new contract for assistance) if the State in which the local government or housing sponsor is located, is receiving assistance under a contract with such Secretary. The applicable state agency would give priority in distributing amounts to any unit of general local government or nonprofit housing sponsor for which a contract is not renewed (or that could not enter into a new contract). The conference report does not contain the House provision. The conferees recognize that the House provision is no longer necessary if states are no longer the principal grantee.

Use of residents in providing services. The House amendment contained a provision not included in the Senate bill that would require each housing project that receives assistance under this section, to the maximum extent practicable, to employ older and disabled adults who are residents of the housing project to provide the services under congregate services programs. Such individuals would be paid wages that would not be lower than the higher of the minimum wage under the Fair Labor Standards Act of 1938, the State or local minimum wage, or the prevailing wage rates for persons employed in similar public occupations. Except for wages paid to provide services, the imputed value of supportive services under a congregate services program could not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted or State program based on need. The conference report contains the House provision.

Eligibility and priority for 1978 Act recipients. The House amendment contained a provision not included in the Senate bill that would, notwithstanding any other provision of this section, allow any public housing agency, housing assisted under Section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section to continue to receive assistance under existing contracts until they expire and to be given priority for funding after the contract expiration. The conference report contains the House provision with an amendment which deletes distinctions related to states.

Administrative cost limitation. The House amendment contained a provision not included in the Senate bill that would limit administrative costs to not more than 10 percent of the sum of such assistance and the 50% matching costs. Administrative costs could not include any capital expenses. The conference report contains the House provision.

Definitions. The House amendment contained provisions not included in the Senate bill that would establish definitions for "activity of daily living", "case management", "congregate housing", "disabled", "instrumental activity of daily living", "local nonprofit housing sponsor", "nonprofit", "older", "temporarily disabled", and "unit of general local government". The

conference report contains the House provisions with an amendment to add qualifying supportive services definition, conforms services section (f) to this definition and deletes "state advisory committees". (Check additional definitions)

Reports to Congress. The House amendment contained a provision not included in the Senate bill that would require each Secretary concerned to submit to the Congress, not less than annually, a report containing the number and percent of eligible residents served under such programs and the types of services provided to such residents; the number of deinstitutionalized individuals served under the programs; a statement of any new resources for providing services that have been developed on the State or local level; the cost to States and projects of providing services; a description of how effective the services are at meeting the needs of project residents, local governments and housing sponsors, and State governments; a statement of any changes in membership with respect to each State advisory committee; a statement of the total amount of fees for congregate services collected from residents in eligible projects assisted under this section; a description of the reasons for termination of services provided to eligible project residents; a statement of the number of persons who previously received congregate services who have since been institutionalized; a description of how congregate services programs were provided in eligible housing projects located in the poorest and most isolated areas; an evaluation of the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program; any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section. The conference report contains the House provision.

Submission of data to the Secretary. The House amendment contained a provision not included in the Senate bill that would require the Secretaries to require by regulation that the contract beneficiaries provide appropriate and adequate data to compile in the reports to Congress. The conference report contains the House provision with an amendment to require date to be submitted from recipients of assistance under this section.

Regulations. The House amendment contained a provision not included in the Senate bill that would require the Secretaries to jointly issue any regulations necessary to carry out this section within 90 days of enactment. The conference report contains the House provision.

Authorization of appropriations. The House amendment authorized $6,002,000 for the existing congregate services housing program in FY91. It would prohibit new grants or loans after October 1, 1990. The House amendment also authorized $11,244,000 to carry out the revised congregate housing services program in FY 1991, to be allocated proportionately between the two Secretaries according to their respective numbers of assisted units and their respective eligible elderly residents. The sums would remain available until expended. The Senate bill authorized $50,000,000 in FY91 and $52,000,000 in FY92 for Project Retrofit. The conference report authorizes $25,000,000 for the revised congregate housing services program in FY91 and $26,100,000 in FY92.

Supplemental assistance. The Senate bill contained a provision not included in the House amendment that would authorize the Secretary to reserve not more than 5% of the funds under this section in each fiscal year to supplement grants to maintain adequate service levels in out years. The conference report contains the Senate provision.

HOPE for Elderly Independence

Purpose. The House amendment contained a provision that would establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly individuals to continue to live independently. This demonstration program would terminate 5 years from the date of the enactment of this Act. The Senate bill contained a provision that would similar except it would not include certificates. The conference report contains the House provision with an amendment changing "individuals" to "persons".

Authority. The House amendment contained a provision that would permit the Secretary to enter into contracts with public housing agencies to provide Section 8 housing assistance, both certificates and vouchers. As part of the demonstration, the Secretary could also provide for supportive services in connection with existing contracts for vouchers and certificates. The Senate bill contained a similar provision except that only vouchers could be used. It would require the Secretary to set aside not more than 1,500 incremental rental vouchers for the purpose of carrying out this demonstration but would not include individuals currently receiving Section 8 contracts in the demonstration. The conference report contains the House provision with an amendment limiting housing assistance provided to a total of 1500 certificates and vouchers.

Funding. The House amendment contained a provision that would provide funding for supportive services as follows: the Secretary would provide 40%, the public housing agency would ensure the provision of at least 50% from sources other than under this section, and each frail elderly individual would pay 10% of the costs of the supportive services that he or she receives, except that no frail elderly individual could be required to pay an amount that exceeds 20% of his or her adjusted income. To the extent that the 20% limitation would result in a frail elderly person paying less than 10% of the cost of providing the services, the remaining costs would be divided equally between the public housing agency and the Secretary. The Secretary would provide for the waiver of the requirement to pay costs under this subparagraph for individuals whose income is determined to be insufficient to provide for any payment. The Senate bill contained a provision that was similar except that it did not limit the amount of frail elderly individual pays in relation to the frail elderly individual's adjusted income. No waiver of the requirement to pay costs for individuals whose income is determined to be insufficient to provide for any payment. The conference report contains the House provision.

Provision of services. The House amendment contained a provision that would require each public housing agency to ensure that supportive services appropriate to the needs of the frail elderly individuals to be served under this demonstration are provided throughout the demonstration period. The Senate bill contained a provision that was similar except that it would limit the eligibility for supportive services to persons who are receiving housing assistance under this section. The conference report contains the House provision.

In-kind match. The House amendment contained a provision that would allow a public housing agency to include the value of such items as the Secretary may determine to be appropriate in determining compliance with this section, if such items have a readily discernible market value. The Senate bill contained a provision that was similar except that it did not require the market value to be readily discernible. The conference report contains the House provision.

Definitions

Demonstration period. The House amendment contained a provision not included in the Senate bill that would define "Demonstration period" to mean the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a). The conference report contains the House provision.

Supportive services. The House amendment contained a provision that would define "Supportive services" to mean assistance that the Secretary determines addresses the special needs of frail elderly individuals and provides appropriate supportive services or assists such individuals in obtaining appropriate supportive services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for achieving and maintaining independent living. Such services do not include medical services. The Senate bill would be similar except the definition of appropriate supportive services substitutes the words "personal assistance with activities of daily living" for "personal care" and does not include transportation or meal services. The conference report contains the House provision.

Multi-unit demonstration. The House amendment contained a provision not included in the Senate bill that would require the Secretary to conduct a demonstration project to determine the feasibility of using Section 8 housing assistance to enable frail elderly persons to live independently in multi-unit housing designed specifically for occupancy by frail elderly individuals. The Secretary would contract with a public housing agency to provide Section 8 housing assistance to assist elderly persons in at least 75% of the units in a single housing project with more than 100 units. The assistance payment contract under Section 8 would be attached to the structure for an initial term of 5 years. At the option of the public housing agency and subject to the availability of amounts approved in appropriations Acts, the contract could be renewed for 3 additional 5-year terms. Rents would be subject to the limitations in effect for the area under Section 8 for projects for the elderly receiving loans under Section 202 programs. A reasonable portion of the funds would to be set aside for supportive services.

The House amendment also contained a provision not included in the Senate bill that would require applications for assistance under this demonstration project to be submitted by general local governments with a population under 50,000. The Secretary would select one application for funding based on the following criteria: (1) the proportion of persons who are elderly; (2) the extent of housing constructed prior to 1940; (3) the number of elderly persons living in adjacent projects who could utilize the services and facilities; (4) the level of State and local contributions; and (5) the project's contribution to neighborhood improvement. The conference report contains the House provision with an amendment to move the

demonstration as part of HOPE for Elderly Independence and limit the demonstration to one HUD Region.

Reports. The House amendment contained a provision that would require the Secretary to submit to Congress, at least annually, a report evaluating the effectiveness of the demonstration, which would include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate to the demonstration. The Senate bill contained a similar provision except that it would require 2 reports to be submitted to Congress evaluating the effectiveness of the demonstration program under this section: (1) an interim report not later than 2 years after the date of enactment of this Act, and (2) a final report not later than 2 years after the termination of the demonstration period. The conference report contains the House provision.

Authorization. The House amendment would authorize $34 million for FY 1991 for Section 8(b) and 8(o) housing assistance in connection with the demonstrations under this section and $10 million for supportive services. The Senate bill would authorize 1,500 vouchers and $10 million for FY 1991. The conference report contains the House provision for FY 1991 and would authorize $35.5 million for rental assistance and $10.4 million for services for FY 1992.

Use of RTC Properties for Section 202 program. The House amendment contained a provision not included in the Senate bill that would authorize the purchase of properties and related facilities from the Resolution Trust Corporation for use as Section 202 housing for the elderly. The conference report contains the House provision amend with respect to the existing program in FY 1991 and to the revised supportive housing for the elderly and supportive housing for persons with disabilities.

Centralized Applications. The House amendment contained a provision not included in the Senate bill that would designate a central location for each given area where the elderly can apply for admission to all 202 developments in such area. The conference report amends the House provision to clarify that HUD area offices would be required to provide a listing of available 202 projects in the given area to local agencies serving the elderly. This provision would be incorporated into the existing program in FY 1991 and into the revised programs in FY 1992.

ECHO Units. The House amendment contained a provision not included in the Senate bill that would expand the definition of housing in the Section 202 program to include elder cottage housing opportunity units. The conference report contains the House provision with an amendment making this a demonstration program and requiring HUD to make a special finding that the housing will be made available for very low-income persons for the longest time feasible. The House amendment also contained a provision not included in the Senate bill to include ECHO units as “manufactured housing” for purposes of FHA insurance. The conference report contains the House provision.

Service coordinators. The House amendment contained a provision not included in the Senate bill that would provide for service coordinators and up to 15% of the cost of supportive services including meals, housekeeping, personal care, transportation, health related services, and laundry for elderly to be covered by Section 8 rents in 202 developments to avoid premature institutionalization. The conference report contains the House provision with an amendment to specify that the option is available only to those existing projects which do not participate in the congregate housing services program. For projects developed under the new 202 financing mechanism, the conference report limits the availability of service coordinators to projects principally serving frail elderly persons. This provision would be incorporated into the existing program in FY 1991 and into the revised programs in FY 1992.

Housing and services for the frail elderly. The House amendment contained a provision that would set aside $10 million of the funds provided for Section 202 development loans in FY1991 for loans to rehabilitate Sec. 202-financed facilities in order to meet the needs of the frail elderly. Sec. 8 funds could be used for the employment of service coordinators to assist frail elderly persons in such facilities. The Senate bill provided services for frail elderly persons through the Project Retrofit program. The conference report does not contain the House provision. The activities envisioned by the House provision would be included in the revised Congregate Housing Services Program.

Frail elderly definition. The House amendment contained a provision that would define “frail elderly person” to mean a person at least 62 years of age who is determined, according to HUD regulations, to have an impairment that substantially impedes independent living. The conference report does not contain the House provision.

Frail Elderly Report. The House amendment contained a provision not included in the Senate bill that would require the

Secretary of HUD to review and modify periodically programs to ensure that they meet the needs of the frail elderly and to submit an annual report to Congress. The conference report does not contain the House provision.

Study and report regarding Section 202 housing. The House amendment contained a provision not included in the Senate bill that would require the Secretary to conduct a study of the Section 202 program. The conference report does not contain the House provision.

Subtitle B–Supportive Housing for Persons with Disabilities

Purposes. The Senate bill contained a provision not included in the House amendment that would establish the purpose of the program to enable persons with disabilities to live independently in housing that is designed to accommodate their special needs of persons and which provides supportive services. The conference report contains the Senate provision.

General authority. The Senate bill contained a provision not included in the House amendment that would provide assistance in the form of capital advances and project rental assistance to private nonprofits to finance acquisition, construction, reconstruction, moderate or substantial rehabilitation. It could also include site improvements, conversion, demolition, relocation and other relevant expenditures. The conference report contains the Senate provision with an amendment to include acquisition of property from the RTC.

General requirements. The Senate bill contained a provision not included in the House amendment that would require the Secretary to ensure that assistance would be provided through a range of housing options, including group homes, independent living facilities, multifamily housing, condos and co-ops and the housing would include appropriate supportive services for the residents, provide opportunities for optimal independent living and facilitate the disabled residents participation in the community at large. The conference report contains the Senate provision.

Capital advances. The Senate bill contained a provision not included in the House amendment that would define capital advances as no interest loans to be repaid only if the housing is no longer available for very low income elderly. Advances would be limited by development cost limitations. The conference report contains the Senate provision.

Project rental assistance. The Senate bill contained a provision not included in the House amendment that would define project rental assistance to include those operating costs not covered by rental income. The annual contract rent would not exceed the initial yearly rent roll plus utility costs, as approved by the Secretary. Adjustments could be made to reflect reasonable increases. For intermediate care facilities, project income would reflect assistance under Title XVI of the Social Security Act. The conference report contains the Senate provision.

Tenant rents. The Senate bill contained a provision not included in the House amendment that would define tenant rents as the higher of 30% of a person's adjusted monthly income, 10% of a person's monthly income, the shelter rent payment as determined by welfare assistance if the person receives such assistance, or in the case of intermediate care facility residents, the amount determined under Title XVI of the Social Security Act. The conference report contains the Senate provision.

Use restriction. The Senate bill contained a provision not included in the House amendment that would require all units to be available for occupancy by very-low income persons for at least 40 years. Repayment of the capital advance would not be required so long as the housing remained available for very-low-income persons with disabilities. The conference report contains the Senate provision.

Rental assistance contract. The Senate bill contained a provision not included in the House amendment that would establish the initial term of contracts for project rental assistance at 20 years. The bill would require the Secretary, to the extent approved in appropriations acts, to extend any expiring contract for at least a five-year term. To facilitate the extension of expiring contracts, the bill would authorize the Secretary to make commitments to extend such contracts during the year prior to their expiration date. The conference report contains the Senate provision.

Application process. The Senate bill contained a provision not included in the House amendment that would require applications to include a description of the proposed housing; of the assistance requested; a supportive services plan which includes the intended population's needs, the supportive services to be offered, the experience of the applicant or designees in

providing services, the manner in which the services would be offered including residential supervision as deemed necessary, and the sources and funding for the supportive services; State or local certification regarding services; assurances of site control no later than 6 months after award of assistance, certification of compliance with the affordable housing strategy required under Section 105 of this Act; and other information required by the Secretary. The conference report contains the Senate provision.

Selection criteria. The Senate bill contained a provision not included in the House amendment that would require the Secretary to establish selection criteria to include: the capability of the sponsor; the need for such supportive housing; the extent to which the design would meet the needs of the intended residents; the likelihood that there would be long term financial support for services; the compatibility of the design with the special supportive services needs of the disable residents; site control and other criteria to be determined by the Secretary. The conference report contains the Senate provision.

Development cost limitations. The Senate bill contained a provision not included in the House amendment that would require the Secretary to periodically publish development costs by geographic area which reflect the cost of construction up to codes; the cost of movables; the cost of special design features including accessibility; congregate space; cost of meeting energy efficiency standards; cost of improved land. The Secretary would use current data. The conference report contains the Senate provision with an amendment to incorporate House provision regarding RTC properties.

Annual adjustments. The Senate bill contained a provision not included in the House amendment that would provide for annual adjustments in development costs. The conference report contains the Senate provision.

Incentives. The Senate bill contained a provision not included in the House amendment that would provide an incentive for development costs which are less than the development cost limitations. An owner could retain 50% of the savings in a special housing account. An owner could receive 75% of the savings for the account if energy efficiency features are added in the project that: exceed federally promulgated standards; substantially reduce life cycle costs of the housing; reduce gross rent requirements; enhance tenant comfort and convenience. The special account could be used to supplement supportive services funding or replacement reserves or for other purposes defined by the Secretary. The conference report contains the Senate provision.

Nonfederal funding. The Senate bill contained a provision not included in the House amendment that would allow the owner to contribute nonfederal funding for amenities which could not be financed by the advance or project rental assistance. The conference report contains the Senate provision.

Tenant selection. The Senate bill contained a provision not included in the House amendment that would require the owner to adopt written tenant selection procedures acceptable to the Secretary and to notify rejected applicants in writing promptly. An owner would be permitted to limit occupancy to persons with similar disabilities, requiring similar services, with the approval of the Secretary. The conference report contains the Senate provision with an amendment to make this information available to the appropriate local agency serving persons with disabilities.

Technical assistance. The Senate bill contained a provision not included in the House amendment that would require the Secretary to make available technical assistance. The conference report contains the Senate provision.

Civil rights compliance. The Senate bill contained a provision not included in the House amendment that would require compliance with civil rights laws. The conference report contains the Senate provision.

Change in sites. The Senate bill contained a provision not included in the House amendment that would permit an owner to change sites after award notice, provided site control is attained within one year of award. After 1 year, the assistance would be recaptured. The conference report contains the Senate provision.

Escrow. The Senate bill contained a provision not included in the House amendment that would permit the Secretary to require a $10,000 escrow deposit from owners to insure the owner’s commitment to the housing. The conference report contains the Senate provision.

Appeal. The Senate bill contained a provision not included in the House amendment that would provide for an appeal of cancelled loan authority within 30 days of notice receipt. The appeal would be completed within 45 days. The conference report contains the Senate provision.

Davis-Bacon. The Senate bill contained a provision not included in the House amendment that would require Davis-Bacon wage rates for projects for 12 or more residents except if the labor is volunteer labor. The conference report contains the Senate provision.

Definitions. The Senate bill contained a provision not included in the House amendment that would establish definitions for "group home", "independent living facility", and "private nonprofit organization". The conference report contains these Senate definitions.

Persons with AIDS as Disabled. The House amendment contained a provision that would include persons disabled by AIDS within the definition of handicapped. The Senate bill contained a provision that would include persons with AIDS within the definition of "person with disabilities". The conference report contains the Senate definition of "persons with disabilities" with an amendment to delete the inclusion of persons with aids. The conferees understand that persons with AIDS who would otherwise qualify as elderly or disabled would be eligible for assistance under the 202 program.

Authorizations. The Senate bill authorized capital advances of $258,000,000 for fiscal year 1991, $271,000,000 for fiscal year 1992 and $281,840,000 for fiscal year 1993. The Senate bill provided for a revolving fund for the appropriated amounts, any proceeds for notes and obligations, and for any repayments. The Senate bill reserved authority, to the extent approved in appropriations acts, in the aggregate of $234,000,000 in fiscal year 1991, $246,000,000 in fiscal year 1992, and $255,840,000 for fiscal year 1993 for project rental assistance. The conference report would authorize $271,000,000 for capital advances and $246,000,000 for rental assistance in fiscal year 1992.

Effective date and applicability. The Senate bill contained a provision not included in the House amendment that would permit sponsors of projects under the old Sec. 202 program for which no loan has been executed to elect to be subject to the provisions of the new Sec. 202 program. It further provides that any unobligated funds from previous reservations would be available for use under this section. The conference report contains the Senate provision with an amendment to require HUD to implement the 202 revisions through notice and comment rulemaking and to delay implementation until fiscal year 1992.

Subtitle C–Supportive Housing for the Homeless

MC KINNEY ACT AMENDMENTS

The Senate bill contained a provision that was not included in the House amendment that would strike certain homeless housing provisions authorized in Title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77) and replace them with a formula block grant program for the homeless. The House addressed McKinney homeless housing programs by authorizing various programmatic changes in a separate bill, H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990.

The conference report contains the McKinney provisions as set forth in H.R. 3789, the McKinney reauthorization bill, with the following amendment: (1) the McKinney homeless programmatic changes provided in the House bill are included in the conference report both within the restructure provisions and included in the portion of the conference report which provides amendments to the current McKinney homeless program; (2) the conference report reflects the Senate provisions which restructure selected McKinney homeless housing programs by combining the eligible activities of these existing McKinney housing programs into one program and by making activities under these current programs eligible as approved activities under the restructured program; (3) the programs which are included as approved activities are the Emergency Shelter Grants program and the Supportive Housing Demonstration program, which includes the Transitional Housing Demonstration program and the Permanent Housing for Homeless Handicapped Persons; (4) the conference report also includes the Senate provisions which create a discretionary program which is patterned after the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program in existing law; (5) the conference report does not contain provisions contained in the Senate bill which authorize the Secretary of Housing and Urban Development to establish an allocation formula nor does the

conference report contain any of the specific provisions of the Senate bill which provide the specific elements of a formula block grant program, such as a percentage allocation of resources or any of the elements of the allocation formula contained in the Senate bill; (6) the conference report does not include within the restructure provisions, the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Dwellings program, instead it is left as a separate program within existing law; (7) the conference report authorizes the restructuring of the selected McKinney programs only after (a) HUD has examined the feasibility of establishing an allocation formula based on selected criteria specified in the conference report and any other factors as determined by HUD, (b) HUD has presented a series of alternative formulas to Congress, and (c) legislation has been enacted which adopts an allocation formula; (8) the conference report, however, stipulates that any restructuring of the homeless programs will not take effect before October 1, 1992, or on the date specified by a statute adopting a proposed allocation formula, whichever is later; (9) the conference report requires HUD to report its findings within eighteen months of the enactment date and to require HUD to consult with organizations representing homeless persons, nonprofit organizations, public housing agencies and state and local housing and service agencies; (10) the conference report contains a provision that was not included in either bill which provides that these McKinney homeless provisions will not take effect if H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, is enacted before the enactment of this Act. H.R. 3789 contains the same statutory provisions, however similar language in each conference report has been included in order to avoid any statutory or implementation problems which will result with duplicative statutory language; (11) the conference report contains the Senate bill provisions on the strategy to eliminate unfit transient facilities, however, the conference report does not include any references to welfare hotels as originally provided in the Senate bill; (12) the conference report contains the Senate bill provisions on the Shelter Plus Care programs which are authorized within the restructure of the McKinney programs as well as authorized in existing law for Fiscal Years 1991 and 1992; (13) the Shelter Plus Care program provisions include various House bill provisions, such as authorizing program assistance to families of program eligible individuals, program matching requirements, the need to identify community needs within the program selection requirements, the termination of assistance, the consultation provisions with the Secretary of Health and Human Services (HHS) and the definition of nonprofits; and (14) the conference report provides the following authorizations for Fiscal Years 1991 and 1992 as follows: for the Emergency Shelter Grants program, $125 million and $138 million, respectively; for the Supportive Housing Demonstration Program, $125 million and $150 million, respectively; for the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program, $30 million for each fiscal year; for the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Dwelling Program, $79 million and $82.4 million, respectively; for the Shelter Plus Care Rental Housing Assistance Programs, $80.4 million and $167.2 million, respectively; for the Shelter Plus Care Single Room Occupancy (SRO) Dwelling Program, $24.8 million and $54.2 million, respectively; and (15) for the Shelter Plus Care Section 202 Program, $18 million and $37.2 million, respectively; the conference report authorizes such sums as may be necessary for the restructure of the McKinney programs which is intended only as a reference within the statutory text in order to authorize the general provisions of the program.

The Committee is disturbed by HUD's long delay in complying with the July 27, 1989 Oder in Lee v. Kemp. We long for HUD to promptly publish a proposed regulation designed to make a significant percentage of single family inventory units available to house homeless and other low-income people. The inventory represents an invaluable resource for providing good housing in well-served neighborhoods for people in need; the inventory should be used for that purpose, not for sales to speculators.

Subtitle D–Housing Opportunities for Persons With AIDS

The House amendment contained a provision not included in the Senate bill which created the AIDS Housing Opportunity Act. The conference report contains the House provision with the following amendment: (1) the conference report consolidates the programs into one formula grant program to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS); (2) the conference report retains each program as an eligible activity under the formula grant program; (3) the conference report does not contain the reservation of assistance for individuals with AIDS as provided in the House bill, however, the conferees believe that the Department of Housing and Urban Development (HUD) should permit public housing authorities to reserve Section 8 and public housing assistance for persons with AIDS and this deletion is not intended to preclude persons with AIDS from receiving such vitally-needed housing assistance; (4) the conference report distributes program assistance in the following manner: 90% of the funds will be distributed to entities meeting the following (a) 75% of formula to localities that are within a metropolitan statistical area (MSA) greater than 500,000 and have greater than 1,500 cumulative AIDS cases (not including those in eligible localities), (b) 25% of formula to localities that exceed the annual per

capita rate of AIDS incidence for metropolitan areas. [Each such entity shall receive funding according to their proportionate share of the total except that each entity shall receive a minimum allocation of $200,000 (from (a) and (b) combined) and any increase this entails from the formula amount will be deducted from all other allocations exceeding $200,000 on a pro rata basis]; (5) the conference report distributes 10% of the amounts authorized for the program through HUD discretion to meet housing needs in non-eligible states and localities and to fund special projects of national significance; (6) the conference report requires HUD in selecting nonparticipation jurisdictions projects to consider–(a) relative numbers of AIDS cases and per capita AIDS incidence; (b) housing needs of persons with AIDS in the community; (c) extent of local planning and coordination of housing programs for persons with AIDS; and (d) the likelihood of the continuation of state and local efforts; (7) the conference report requires HUD in selecting projects of national significance to consider–(a) the need to assess the effectiveness of a particular model for providing supportive housing for persons with AIDS, (b) the innovative nature of the proposed activity, and (c) the proposed activity in other similar localities or nationally; and (8) the conference report authorizes $75 million in Fiscal Year 1991 and $156.5 million in Fiscal Year 1992 for the AIDS Housing Opportunity program.

The conferees wish to clarify that the size of a grant under each formula shall be based on the ratio of the cumulative number of AIDS cases in a jurisdiction to the total cumulative cases of all participating jurisdictions. The conferees also intend that rental assistance under Section 859 shall also be considered permanent housing.

White House Conference on Homelessness

The Senate bill contained a provision not included in the House amendment that would establish a White House Conference on Homelessness. The conference report does not contain the Senate provision.

TITLE IX–COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A–Community Development and Neighborhood Development and Preservation

Authorizations. The House amendment would authorize $3,241,700,000 for CDBG in Fiscal Year 1991. The Senate bill would authorize $3,031,700,000 for Fiscal Year 1991 and $3,154,000,000 for Fiscal Year 1992. The conference report would authorize $3,137,000,000 for Fiscal Year 1991 and $3,272,000,000 for Fiscal Year 1992 and contains the House set-asides under the CDBG program for Fiscal Years 1991 and 1992, but authorizes $6.5 million in Fiscal Years 1991 and 1992 for historically black colleges.

The Senate bill contained a provision that would authorize grants from amounts appropriated for units of general local government in North Dakota for public services provided with respect to Indian housing. The conference report contains the Senate provision.

CDBG Targeting. The House amendment contained a provision not included in the Senate bill that would change CDBG low and moderate income targeting requirements from 60 percent to 75 percent. The conference report contains the House provision with an amendment to change 75 percent to 70 percent. The conferees understand that the targeting requirement is achieved by the aggregate over a three-year period.

CDBG Classifications and Allocations

City/County classifications. The House amendment contained provisions that would permit metropolitan cities and urban counties to retain their CDBG classifications if they have been so classified for at least 2 years. The Senate bill contained a similar provision for metropolitan cities and urban counties to retain their classifications. The conference report contains the House provision.

Allocation in cases of annexation. The House amendment contained a provision that would provide for a growth lag adjustment in cases of annexation. It would be effective for all CDBG allocations after enactment. The Senate bill contained a provision which was similar but would be subject to appropriations and would only be effective for three years after

annexation. The conference report contains the House provision.

Housing assistance plan. The House amendment contained a provision not included in the Senate bill that would amend housing assistance plans to require that such plans recognize the housing needs of families who are participating in self-sufficiency programs. The conference report does not contain the House provision.

Community development plans. The House amendment contained a provision not included in the Senate bill that would establish the findings and purposes of the community development plans. The House amendment would also require grant recipients to submit a priority list of anticipated community development needs. These provisions would be applicable to any amounts received under Section 106 of the Housing and Community Development Act of 1974 after the expiration of the 6-month period beginning on the date of the enactment. The conference report contains the House provision with an amendment to simplify the requirements so that communities would be required to assess community development needs and identify the strategies that they would undertake to satisfy those needs and to delete the computerized list. Limitation on CDBG entitlement funding must have a strategy.

Civil rights demonstration policies. The Senate bill contained a provision not included in the House amendment that would require HUD to withhold funds from CDBG grantees which have not adopted and will not enforce a policy prohibiting use of excessive force by law enforcement agencies against non-violent civil rights demonstrators or fails to adopt and enforce state and local laws against barring entrance to a facility which is the subject of a demonstration. The conference report contains the Senate provision.

Public services funding limit for nonentitlement communities. The Senate bill contained a provision not included in the House amendment that would apply a 15% cap on public services funding to nonentitlement communities on a statewide basis. The conference report contains the Senate provision.

CDBG Eligible Activities. The House amendment contained a provision that would amend the provision for assistance to nonprofits for economic development activities by requiring that such projects minimize, to the extent practicable, displacement of existing businesses and jobs and by defining such projects as those that: create or retain jobs for low and moderate income persons; create or retain businesses owned by community residents; assist businesses that provide goods or services needed by and affordable to low and moderate income residents; or provide technical assistance to promote such activities. The Senate bill contained a similar provision that added technical assistance to nonprofits to increase capacity to carry out neighborhood revitalization or community economic development as an eligible activity. The conference report contains the both the Senate and the House provisions.

The House amendment also contained a provision, not contained in the Senate bill, to add as an eligible activity the provision of direct assistance to facilitate and expand homeownership of persons of low and moderate income including interest rate subsidies, financing, for the acquisition of owner occupied housing, purchase of guarantees for mortgage financing obtained by low and moderate income homebuyers, and the payment of 50% of any required downpayments and reasonable closing costs. Homeownership assistance would not be considered public services for purposes of the 15% cap on the use of CDBG funds for public services. The conference report allowed direct homeownership assistance under the CDBG program for two years. The Secretary would be authorized to allow homeownership assistance under CDBG for a third year if deemed appropriate. The conferees intend that as soon as finds are available for homeownership activities under HOME, homeownership assistance would no longer be an eligible activity under the CDBG program.

Lump sum payments. The House amendment contained a provision not included in the Senate bill that would reinstate authority of local governments to receive lump sum payments under Section 104(h) of the 1974 Housing and Community Development Act. The conference report contains the House provision.

Community development loan guarantees

Purpose/Objectives. The House amendment contained a provision not included in the Senate bill that would establish the purposes and objectives of the loan guarantees. The conference report contains the House provision with an amendment to delete references to housing construction.

Guarantee of loans issued by nonentitlement communities and territories. The House amendment contained a provision not included in the Senate bill that would expand Section 108 CDBG loan guarantee authority to include nonentitlement communities; allow states to assist nonentitlement communities in the submission of applications for guarantees; and allow states to pledge CDBG funds for the repayment of notes issued by non-entitlement communities. The conference report contains the House provisions.

Guarantee of housing construction. The House amendment contained a provision not included in the Senate bill to expand section 108 authority to include guarantees for construction of low and moderate income housing. The conference report does not contain that provision. The conference report allows Sec. 108 loan guarantees for non-profit homeownership new construction as long as the non-profit is the recipient of a HODAG grant or Nehemiah grant.

Loan repayment period. The House amendment contained a provision not included in the Senate bill that would extend loan repayment period for Section 108 loans up to 20 years. The conference report contains the House provision.

Amount of outstanding loan guarantees. The House amendment contained a provision not included in the Senate bill that would allow communities and states to borrow up to five times their CDBG allotment. The conference report contains the House provision.

Allocation of loan guarantees and limitation on amount guaranteed for each community. The House amendment contained a provision not included in the Senate bill that would provide for allocations of loan guarantees among eligible entities; 70% to metropolitan cities, urban counties, and Indian tribes and 30% for nonentitlement areas. The Secretary could waive if absence of qualified applicants or proposed activities. Establishes a limitation per community for such guarantees at $25,000,000 for each metropolitan city, urban county or Indian tribe and at $5,000,000 of non-entitlement communities, in any single year. Permits the Secretary to assist the issuer of a note or other obligation guaranteed under Section 108 in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer. The conference report contains the House provision with an amendment that upon using 50% of the Section 108 loan authority, the Secretary must report to Congress and has the discretion to ask Congress to raise the ceiling and to impose a cap of $35 million for entitlement communities and $7 million for nonentitlement communities.

Training and information. The House amendment contained a provision not included in the Senate bill that would authorize the Secretary in cooperation with eligible public entities to carry out training and information activities with respect to the guarantee program. The conference report contains the House provision.

Reports/Regulations. The House amendment contained a provision not included in the Senate bill that would require the Secretary to submit annual reports to Congress and to issue final regulations within 180 days of enactment. The conference report contains the House provision.

Hawaiian homelands. The House amendment contained a provision that would exempt the provision of assistance to Hawaiian homelands from the nondiscrimination provisions of Section 109 of the Housing and Community Development Act of 1974 and the requirements of Section 104(b) of such act, including the moderate and low income requirements. The Senate bill contained a similar provision which only exempts such assistance from the prohibition on racial discrimination. The conference report contains the Senate provision.

Prohibition of discrimination on the basis of religion in CDBG programs. The House amendment contained a provision not included in the Senate bill that would expand the anti-discrimination provision in the CDBG program to include discrimination on the basis of religion or religious affiliation. The conference report contains the House provision.

Indian CDBG. The House amendment contained a provision not included in the Senate bill that would make technical corrections regarding CDBG for Indian Tribes and would authorize the Secretary to reserve not more than 1% of the amounts allocated for CDBG in any year to Indian Tribe Funds to be made available on a competitive basis. The conference report contains the House provision with an amendment requiring a 1% set-aside of funds.

Colonias. The House amendment contained a provision not included in the Senate bill that would require the states of

Arizona, California, New Mexico, and Texas to set aside 10% of their CDBG funds in the first fiscal year, and a percentage not to exceed 10% for each of the succeeding fiscal years, for activities designed to meet the needs of the residents of colonias relating to water, sewage, and housing. The conference report contains the House provision.

Urban homesteading. The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to acquire from the Resolution Trust Corporation eligible single family properties (as such term is defined in Section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk for use in connection with urban homesteading programs. The Senate bill contained a provision to terminate authority to issue grants under the Urban homesteading program on October 1, 1990. The conference report contains the House provision, but terminates the Urban Homesteading program on Oct. 1, 1991.

Section 312 rehabilitation program. The House amendment contained a provision not included in the Senate bill that would prohibit the use of Section 312 rehabilitation loan funds for purposes other than those under Section 312. Extends program to September 30, 1991 and permits use of Section 312 loan commitments to the extent provided in Appropriation acts for Fiscal Year 1990 and 1991. Prohibits non-residential use of Section 312 funds and limits multifamily use to 50% of appropriations. The Senate bill contained a provision which would terminate the program as of October 1, 1991. The conference report contains the Senate provision.

Neighborhood reinvestment corporation. The House amendment contained a provision not included in the Senate bill that would authorize congressional findings regarding the role, function and purposes of the Neighborhood Reinvestment Corporation and would establish authorization of $50 million for Fiscal Year 1991 and specify eligible uses of funds. The House amendment also contained a provision not included in the Senate bill that would require Neighborhood Reinvestment Corporation to conduct a study of development activities for expanding affordable housing opportunities within lands held for Indian tribes. The House amendment also contained a provision that would require the Neighborhood Reinvestment Corporation to study and report to Congress on the effect of and demand for training, supervision, and counseling through the Neighborhood Housing Services program and the effect of “sweat equity” on mortgages for lower income families. The Senate bill would establish a sweat equity model program under HOP which provides grants to public and private nonprofits and community groups to provide technical assistance and supervision to low income and very low income families, including assistance in acquiring, rehabilitating and constructing housing by the self-help method. The Senate bill reauthorized the neighborhood reinvestment program but made no changes in purposes, or tasks. The conference report contains the House provisions with an amendment to delete the Indian housing study.

The House amendment authorized $50 million for the Neighborhood Reinvestment Corporation in Fiscal Year 1991. The Senate bill authorized $28 million for each of fiscal years 1991, 1992, and 1993. The conference report would authorize $35 million in Fiscal Year 91 and $36.5 million in Fiscal Year 92.

Neighborhood development demonstration. The House amendment contained a provision that would authorize $2,000,000 for Fiscal Year 1991 from amounts authorized for the CDBG program for grants under the Neighborhood Development Demonstration program. The Senate bill would authorize Neighborhood Development Demonstration program at $2,000,000 for Fiscal Years 1991, 1992 and 1993. The conference report contains the House provision.

Use of urban renewal land disposition proceeds and public facility funds. The House amendment contained a provision not included in the Senate bill that would permit the cities of Nanticoke, the Borough of Plymouth and the Borough of Forty Fort all in Luzerne County, Pennsylvania; Vallejo, California; New Haven, Connecticut; Lebanon, Pennsylvania; East Stroudsburg, Pennsylvania; Newburyport, Massachusetts and Malden, Massachusetts to retain certain urban renewal funds and use such funds under the Community Development Block Grant program. The provision would require the forgiveness of an indebtedness of Fairmont Heights, Maryland. The conference report contains the House provision with an amendment to include several additional communities.

Study of availability of housing proximate to places of employment. The House amendment contained a provision not included in the Senate bill that would require HUD to conduct a study regarding the availability of housing close to places of employment and require HUD to report to Congress on the results of the study within 1 year of enactment. The conference report contains the House provision.

Community development corporation grants in enterprise zones. The House amendment contained a provision not included in the Senate bill that would authorize the Secretary to make grants to community development corporations sponsored by a bank or a thrift, by a non bank economic development corporation or by residents of a distressed city or county to assist in reducing the interest rate on loans for economic development activities. The conference report does not contain the House provision.

CDBG sanctions. The Senate bill contained a provision not included in the House amendment that would authorize the Secretary to adjust, reduce, withhold or withdraw CDBG funds if, after a hearing, the Secretary determines that the community is continuing to fail to satisfy published standards. The conference report does not contain the Senate provision. The Conferees do not intend to prejudice ongoing litigation.

CDBG allocation formula review. The Senate bill contained a provision not included in the House amendment that would require HUD Secretary to review the allocation formula for CDBG as to the adequacy, effectiveness and equity of the factors and weights used in the formula. The conference report contains the Senate provision.

Study on turning drug zones into opportunity zones. The Senate bill contained a provision not included in the House amendment that would require HUD, within 90 days from the enactment date, to conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance, and Urban Affairs, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities. The conference report contains the Senate provision with an amendment to strike the sentence soliciting recommendations on "how areas that would qualify for benefits as an enterprise zone might receive additional benefits if they met criteria demonstrating that the community suffered from acute drug and related crime".

Study on enterprise zones. The Senate bill contained a provision not included in the House amendment that would require HUD to conduct a study on the feasibility of establishing a national volunteer corps made up of representatives from the business and labor communities who would provide management expertise or technical assistance to businesses or non profits located in designated enterprise zones. The conference report does not contain the Senate provision.

Subtitle B–Disaster Relief

The House amendment contained a provision not included in the Senate bill that provided disaster relief as follows:

Section 8 certificates, vouchers, and moderate rehabilitation assistance.

Budget authority would be authorized for Section 8 Certificates, Vouchers, and Moderate Rehabilitation Assistance for individuals and families whose housing has been damaged or destroyed as a result of a major disaster which has been declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Secretary would be required, in implementing this section, to evaluate the natural hazards to which any permanent replacement housing is exposed and take appropriate action to mitigate these hazards.

CDBG and UDAG assistance. The Secretary would be authorized to make available recaptured CDBG assistance, that becomes available under Section 104(e) or 111 of the 1974 Housing Act, and recaptured UDAG amounts from previous grants, to metropolitan cities and urban counties located or partially located in areas affected by a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Secretary would be required, in using recaptured CDBG and UDAG funds, to give priority to providing emergency assistance to metropolitan cities and counties in disaster affected areas. The Secretary would be authorized to provide assistance only to the extent necessary to meet emergency community or urban development needs as determined by HUD that are not met with the Robert T. Stafford Disaster Assistance or any other assistance. Such funds could only be used for CDBG or UDAG eligible activities and requires HUD to evaluate the natural hazards to which any permanent replacement housing is exposed and take appropriate action to mitigate such hazards. The Secretary would be required to provide applications for such recaptured CDBG and UDAG assistance and authorizes eligible cities and counties to receive such assistance in the 3-year period following the date

that the disaster is declared. These provisions could not be construed to require HUD to reserve recaptured CDBG or UDAG assistance if when such amounts are to be reallocated, no metropolitan city or urban county qualifies for assistance.

Rural housing. The Agriculture Secretary would be required to allocate rural housing assistance to the affected states for distribution to the counties designated as disaster areas, and to the contiguous counties. Provides allocations of assistance to be made in the 3-year period beginning on the declaration of the disaster. Assistance would be made to States based on the product of: (1) the sum of the official State estimate of the number of destroyed or seriously damaged dwelling units in disaster counties and contiguous counties within the eligible FmHA service area; and (2) 20% of the average cost of all assisted FmHA dwelling units assisted in the State in the last 3 years. This FmHA assistance would be required to be used for housing purposes and would require regulations to be issued to assure prompt and expeditious use of funds for the restoration of decent, safe, and sanitary housing within the affected disaster areas. The Agriculture Secretary would be required to evaluate the natural hazards to which any permanent replacement housing is exposed and take appropriate action to mitigate such hazards. Assistance would be required to be available to local governments and their agencies, local nonprofit organizations, agencies and corporations for the construction or rehabilitation of housing for agricultural employees and their families. The Agriculture Secretary would be authorized to waive the rural housing definition under Section 520 of the 1949 Housing Act as the Secretary considers appropriate with respect to this assistance and be authorized to advance such sums as may be necessary from the Rural Housing Insurance Fund for disaster assistance.

The conference report contains the House provision with an amendment to remove the provision making UDAG recaptures available for the purposes of this subtitle. The Committee has become aware that the cities and counties impacted by the October 17, 1990, Loma Prieta Earthquake face a serious threat of permanent loss of very low income housing units if immediate financial assistance is not made available for the rehabilitation and replacement of very low income housing units rendered uninhabitable by the earthquake. The Committee strongly urges the Secretary to be allocated $25 million from the monies authorized to be retained by the Secretary under Section 104 of the HUD Reform Act as soon as possible after the beginning of fiscal year 1991 to the impacted counties in block grant form for the purpose of assisting the replacement and rehabilitation of very low income housing units damaged by the Loma Prieta earthquake.

Subtitle C–Regulatory Programs

Mortgage servicing transfer disclosure. The House amendment contained a provision that was not included in the Senate bill with respect to certain aspects of mortgage servicing transfer disclosure. The conference report contains the House provision amended to require the Secretary to develop a model disclosure statement that discloses that the person originating the loan has the capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred. The conferees want to insure that mortgage borrowers are properly informed about and protected during the practice of the transfer, sale, and assignment of mortgage servicing and to achieve this objective by requiring proper disclosure at the time of mortgage application of past practices of the lender regarding the transfer, sale, or assignment of servicing on loans that the lender has originated for the past 3 years.

The provision concentrating on future practices by lenders regarding the sale or retention of mortgage servicing is intended to provide future borrower with a non-binding best-guess estimate of the likelihood of the future sale of mortgage servicing. The Conferees recognize that the sale of servicing is an important asset management tool for mortgage lenders, and the liquidity of servicing as an asset should not be limited by this provision. The disclosure form developed by HUD should make the non-binding nature of this information clear to borrowers so that they do not unduly rely upon future prognostications.

Disclosure by loan originator. The House amendment contained a provision that would require each person who makes a federally related mortgage loan to disclose to each person who applies for any such loan, at the time of application for the loan (1) whether the servicing of any such loan may be assigned, sold, or transferred; (2) for each of the 3 previous years the percentage of loans made by such person for which the servicing has been assigned, sold, or transferred, except that for any loan application during the 12-month period beginning on the date of enactment, the information disclosed may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of enactment, the information disclosed may be for the most recent 2 calendar years completed; (3) that the person originating the loan has the capacity to service loans and the best available estimate of the percentage (which need only be expressed as a range of possibilities) of all loans made by such person for which the servicing will be assigned, sold, or

transferred during the 12-month period beginning upon the origination; and (4) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at the time of such application), to assign, sell, or transfer the servicing of such loan.

The House amendment contained a provision that would also require the Secretary to develop a model disclosure statement that notifies the applicant that the best available estimate is a prediction, subject to change, and applies to all of the loan originations made by the lender and not the particular loan of the individual applicant. The conference report contains the House provision amended to require the Secretary to develop a statement disclosing that the person originating the loan has the capacity to service loans and the best available estimate of the percentage (which need only be expressed as a range of possibilities) of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination. The conferees intend that the Secretary will assume the responsibility for disclosure of the best available estimate of servicing that the lender will transfer, sell, or assign in the year the borrower is making his application.

Signature of applicant. The House amendment contained a provision that would provide that no disclosure would be effective unless the disclosure is accompanied by a written statement signed by the applicant that provides that the applicant has read and understood the disclosure. The conference report contains the House provision.

Notice by transferor. The House amendment contained a provision that would provide that each servicer of a federally related mortgage loan would be required to notify the borrower in writing not less than 15 days before the effective date of such action unless the notice is provided at closing of any assignment, sale, or transfer of the servicing of the loan. The conference report contains the House provision amended to contain an effective date 60 days after the enactment of this Act.

The House amendment contained a provision that would require that notice be given not more than 30 days after the effective date of assignment, sale, or transfer of the servicing when (a) the termination of the contract for servicing is for cause; (b) there is a commencement of proceedings for bankruptcy of the servicer; or (c) there is a commencement of proceedings by the Federal Deposit Insurance Corporation (FDIC) or the Resolution Trust Corporation (RTC) for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled). The conference report contains the House provision and the conferees intend for the required notice by the transferor in the case of a "termination of a servicing contract for cause" to relate to an actual or anticipated failure to remit funds owing to the terminating party, to civil or criminal fraud which has caused or may cause financial loss to the terminating party or the borrower, to insolvency and bankruptcy and the appointment of a receiver for the servicer or any entity controlling the servicer, to any governmental action directed at the servicer or its personnel which would so adversely affect the servicer's ability to carry out its obligation under the servicing contract so as to cause financial loss to the terminating party or the borrower is servicing is not terminated immediately and to breaches of representations, warranties, or other contractual commitments which would cause financial loss to the terminating party or the borrower if servicing is not terminated immediately, while the statute exempts several government agencies and government sponsored enterprises from the requirement to notify the borrower prior to the sale, transfer, or assignment of servicing, this exemption is limited to those circumstances where the fiduciary responsibility of the agency or enterprise or the protection of the borrower requires its use should such circumstances arise, notification should be made as quickly as possible, and in any case not more than 30 days after the effective date of transfer, assignment, or sale.

Notice by transferee. The House amendment contained a provision that would require that each servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred would be required to notify the borrower in writing of any such assignment, sale, or transfer and that the notice would be required to be given to the borrower not more than 15 days after the effective date of transfer. The conference report contains the House provision amended to contain an effective date 60 days after enactment of this act.

Treatment of loan payments during transfer period. The House amendment contained a provision that would prohibit late fees from being imposed on the borrower during the 60-day period beginning on the effective date of transfer and no such payment could be treated as late for any other purposes, if the payment is received by the transferor servicer before the due date applicable to such payment. The conference report contains the House provision.

Duty of loan servicer to respond to borrower inquiries. The House amendment contained a provision that would require servicers that receive a qualified written request from the borrower for information relating to the servicing of such loan, to

acknowledge in writing the receipt of the request within 20 days (excluding holidays and weekends) unless the action requested is taken within such period. The conference report contains the House provision.

Damages and costs. The House amendment contained a provision that would provide that failure to comply with the provisions of this section results in the following liability: (1) in the case of an individual action an amount equal to the sum of (a) any actual damages to the borrower as a result of the failure, and (b) any additional damages as the court could allow in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed $1,000; (2) in the case of a class action an amount equal to the sum of (a) any actual damages to each of the borrowers in the class as a result of the failure; and (b) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section in an amount not greater than $1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class could not exceed the lesser of $500,000; or 1 percent of the net worth of the servicer; (3) the costs of the action and attorney fees. The conference report contains the House provision. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failure of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

Administration of Escrow Accounts. The House amendment contained a provision that would require services to pay taxes, insurance premiums, and other charges for which escrow payments are required in a timely manner. The conference report contains the House provision. The conferees intend for servicers to continue their current practice of making escrow payments even when borrowers' escrow accounts are less than the amount required to cover payments due.

Opportunity to cure. The House amendment contained a provision that would provide that a transferor or transferee servicer shall not be liable for failure to comply with any requirement under this section, if the servicer notifies the person concerned of the error within 60 days after discovering an error and before the commencement of an action and before the written notice of the error from the borrower and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid. The conference report contains the House provision.

Preemption of state law. The House amendment contained a provision that would preempt conflicting state laws or requirements governing notice to a borrower at the time of application for a loan or transfer of the servicing of a loan.

The conference report contains the House provision.

Definitions. The House amendment contained a provision that would define "effective date of transfer" as the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan; define the term "servicer" as a person responsible for servicing of a loan (including the person who makes or holds a loan if that person also services the loan) but the term does not include the Federal Deposit Insurance Corporation or the Resolution Trust Corporation with respect to assets transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by termination of the contract for servicing the loan for cause or commencement of proceedings for bankruptcy of the servicer.

Mortgage escrow accounts

Notice. The House amendment contained a provision that would require the servicer of any federally related mortgage loan to notify the borrower not less than annually of any shortage of funds in the escrow account. The Senate bill contains no similar provision. The conference report contains the House provision.

Statement. The House amendment contained a provision that would require any servicer that has established an escrow account in connection with a federally related mortgage loan to submit to the borrower a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account

during the first 12 months after the establishment of the account and the anticipated dates of such payments and would provide that the required statement under subparagraph (a) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

The House amendment contained a provision that would also provide that such statement could be incorporated in the uniform settlement statement required by the Real Estate Settlement Procedures Act and would require the Secretary to issue not later than the end of the 90-day period beginning on enactment, regulations prescribing any changes necessary to the uniform settlement statement.

The House amendment contained a provision that would also require any servicer of a federally related mortgage loan to submit annually to the borrower a statement which clearly itemizes the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (separately identified) and the balance in the escrow account at the conclusion of the period. The Senate bill contains no similar provision. The conference report contains the House provision. The initial statement may be submitted at any time after establishment of the account during the first 12 month period. After the initial statement, the servicer would have until 20 days after the conclusion of each 1-year period to submit an annual statement.

Penalties. The House amendment contained a provision that would provide that where a lender or escrow servicer fails to submit the required annual statement to a borrower, such a person is liable for civil penalty of $50 for each such failure, up to a maximum for all failures during any 12-month period of $100,000 and provide that if any failure is due to intentional disregard of the requirement to submit the statement, then the penalty for each failure shall be $100; and there is no aggregate limitation on liability. The Senate bill contains no similar provision. The conference report contains the House provision.

Manufactured housing construction and safety standards

The House amendment contained the following provisions which would revise the manufactured housing construction and safety standards. The Senate bill contained no similar provisions. The conference report does not contain the House provisions but contains an amendment to charter a commission to develop recommendations for modernizing the Manufactured Housing Construction and Safety Standards Act.

Statement of purpose. The House amendment contained a provision that would recognize the important role served by manufactured housing in meeting housing needs in the U.S. and would state that manufactured homes provide a vital source of affordable housing accessible to all Americans. The House amendment would declare that the purpose of this title is to ensure the availability of safe, quality, and affordable manufactured homes and would remove from the statement of purpose references to reduction of the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and references to improvement of quality and durability of manufactured homes.

Definitions. The House amendment contained a provision that would delete the definition of defect and add the term serious defect and the language would define serious defect as a defect in the performance, construction, compliance, or material of a manufactured home that constitutes a safety hazard.

The House amendment contained a provision that would delete from the definition of a manufactured home the requirement that such a home must be built on a permanent chassis.

The House amendment contained a provision that would redefine manufactured home safety as protection from the unreasonable risk of death or injury.

The House amendment contained a provision that would delete the term imminent safety hazard from the Act and adds safety hazard which would mean an unreasonable risk of death or severe personal injury that proximately is caused by (a) an error in design or assembly of the manufactured home by the manufacturer; or (b) the failure to comply with a Federal manufactured home construction and safety standard.

The House amendment contained a provision that would delete the requirement that the Secretary consult with the Consumer Product Safety Commission in establishing Federal manufactured home construction and safety standards and add the requirement that such standards be reasonable, practicable and stated in objective terms. The House amendment would qualify the requirement that such standards shall meet the highest standards of protection for the provision of safe, quality, and affordable manufactured homes.

The House amendment contained a provision that would expand the Secretary's current authority to amend or revoke any regulation relating to a Federal manufactured home construction or safety standard to include the authority to amend or revoke any regulation relating to a standard.

The House amendment contained a provision that would add the requirement that the Secretary consider (1) especially activities by the Consumer Product Safety Commission; and (2) the probable effect of a standard on the initial acquisition cost and post sale maintenance costs, and the need to provide safe, durable, and affordable housing in establishing standards.

The House amendment contained a provision that would require the Secretary to review such standards annually, including changes recommended by affected parties.

The House amendment contained a provision that would require the Secretary to establish by order a system to periodically issue interpretations of Federal manufactured home construction and safety standards that provides all parties directly affected with timely notice and opportunity for comment. The House amendment would require that in establishing such a system the Secretary would (1) provide a system that is practical and workable; (2) provide 2 separate systems for interpretations, which shall include one system for interpretations that have an industry-wide impact and one system for interpretations without an industry-wide impact that affect a single manufacturer; (3) provide an opportunity for comment on any interpretation of the standards that has an industry-wide impact, including the amendment or revocation of any interpretation; (4) provide for the expeditious adoption of industry-wide interpretations, with a reasonable period of time for industry to adjust, redesign, retool, or test when there is no significant controversy; (5) provide for rulemaking regarding any industry-wide interpretations for which the comments submitted clearly reveal a significant controversy; (6) provide for a compilation and indexing of all interpretations; and (7) review and publish the compilation and index annually.

Revisions to National Manufactured Home Advisory Council. The House amendment contained a provision that would reduce the number of members on the National Manufactured Home Advisory Council from 24 to 12 and require that the Secretary shall convene the Advisory Council periodically or when a majority of the Council requests a meeting.

Noncompliance with Standards. The House amendment contained a provision that would provide that where the Secretary finds that a manufactured home sold to a retailer does not conform to applicable construction and safety standards as a result of a manufacturing or design error, or that it contains a serious defect before sale of the home to the purchaser, then the manufacturer would immediately furnish the retailer with a replacement manufactured home or repurchase the manufactured home from the retailer at the price paid by the retailer. The House amendment would provide that, in the alternative, the manufacturer would be required at its own expense to furnish the retailer the part or parts or equipment necessary to correct such serious defect of failure to comply with an applicable manufactured home construction and safety standard.

Inspection procedures. The House amendment contained a provision that would require the Secretary to establish criteria for approval and certification of primary inspection agencies who could be private parties or State agencies and would require the primary inspection agencies to perform inspections of facilities of manufacturers and manufactured homes and to review the plans of manufacturers for conformity with these construction and safety standards. The House amendment would also require the Secretary to publish a list of all primary inspection agencies approved and certified under criteria established in this subsection.

The House amendment contained a provision that would require each manufacturer to select from the list of approved primary inspection agencies, a primary inspection agency with whom it will contract to review plans and conduct the inspections authorized under this title, except that in cases in which a State agency has been approved as the exclusive independent agency for the inspection of homes, the manufacturer must contract with such agency.

Notification and correction of serious defects. The House amendment contained a provision that would delete the requirement that every manufacturer of manufactured homes must furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect.

The House amendment contained a provision that would require each manufacturer of manufactured homes who determines in good faith that any manufactured home produced by the manufacturer contains a serious defect to furnish notification of the serious defect to the purchaser of the manufactured home within a reasonable time after the manufacturer has discovered the serious defect.

The conferees recognize the need to modernize the federal manufactured housing program, but wish to do so in a thorough, comprehensive manner with full consultation with a broad range of experts. The Commission would be comprised of representatives from the manufactured housing industry, consumer groups, manufactured homeowners associations, building codes experts and state or local officials. The Commission would also consult with state and local building codes regulators, modular housing industry representatives, labor unions, manufactured housing dealers, private and public third party inspection agencies and other interested parties. The Commission would consider the deletion of the permanent chassis in the definition of a manufactured home; examine the implications for state regulatory jurisdiction over modular housing; consider the need for additional standards applicable to manufactured housing including but not limited to construction, installation, transportation, thermal insulation, energy efficiency and fire safety; review the current system of inspections of manufactured housing and recommend improvements to the system; consider the need for independent financing of inspection agencies; and evaluate the impact of the manufactured housing insurance program on the actuarial soundness of FHA and GNMA and the impact that proposed changes to current law would have on HUD financing of these homes. The Commission would develop an action plan containing specific recommendations for regulatory and legislative revisions to modernize the National Manufactured Housing Construction and Safety Standards Act of 1974 which would form the basis for legislation next year.

Energy Assessment Report. The House amendment contained a provision that would require the Secretary to submit a report to Congress on at least an annual basis assessing the status of the energy efficiency of and energy use by housing in the U.S. The conference report contains the House provision amended to require the Secretary to submit a report to Congress not later than one year after the date of this Act's enactment which assesses any activity undertaken by the Secretary to increase energy efficiency in housing and would provide that this report is not intended to duplicate any activities or reports by the Department of Energy. The conferees intend that this report should include activity on the August 15, 1990, Department of Energy program to expand energy efficiency and increase affordability of the nation's federally-aided housing. The Secretary of HUD in consultation with the Secretary of the Department of Energy shall establish and include a description of a standard measure by which changes over time in residential energy efficiency may be compared in the first annual report submitted under this subsection.

5-year Energy Efficiency Plan. The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the plan's submission to Congress to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. The conference report contains the House provision.

Uniform Mortgage Financing Plan For Energy Efficiency. The House amendment contained a provision to require the following entities–of HUD, the FHA mortgage insurance programs, of the Agriculture Department, the Farmers Home Administration mortgage loan and mortgage insurance programs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage National Mortgage Association, the Department of Veterans Affairs–to submit to Congress a report containing a recommendation for uniform policy relating to their mortgage programs. The HUD Secretary in consultation with the Energy Secretary would be required to monitor the development of the uniform policy recommendation and consult with the appropriate Federal entities. The Senate bill would require the Secretary to consult with the Secretary of Energy to promulgate a uniform plan for mortgage financing incentives for energy efficiency. The conference report contains the Senate provision amended to require the participation of all the entities in the House provision except for the Veterans Affairs Department.

Report on seismic safety property standards. The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to assess the risk of earthquake-related damage to properties assisted and to develop seismic safety standards for such properties. The conference report contains the House provision amended to clarify that the Secretary would not be prohibited from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section. The conference report does not require that the standards take into consideration building types and risk exposure, including factors relating to new construction and existing structures, building materials, design criteria and construction practices used in the development of new and existing structures.

Subtitle D–Miscellaneous Programs

HUD research and development. The House amendment contained a provision that would require the Secretary to include, in each annual report under Section 8 of the Department of Housing and Urban Development Act, a statement of HUD's research and development activities and findings, including a statement of the amounts and use of funds expended by the Secretary for such purposes. The House amendment would authorize $21,243,000 for FY 1991. The Senate bill contained a provision that would authorize $21,200,000 for FY 1991, $22,100,000 for FY 1992, and $23,000,000 for FY 1993. The conference report contains a provision authorizing $21,200,000 for FY 1991 and $22,100,000 for FY 1992. The conference report also requires that the Secretary submit to Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department that are being conducted.

National Institute of Building Sciences. The House amendment contained a provision that was not included in the Senate bill which would authorize to be appropriated $512,000 for each of the fiscal years 1991 and 1992 for the National Institute of Building Sciences. The conference report contains the House provision amended to provide an authorization of $534,000 for FY 1992.

Advanced building technology program. Federal Government Cooperative Program with the Advanced Building Consortium. The Senate bill contained a provision not included in the House amendment that would establish the "Advanced Building Consortium" as a non-governmental entity to conduct research and take actions to facilitate and promote the use of new, cost-saving building technologies through various activities. The conference report contains the Senate provision with an amendment to establish a cooperative program between the federal government and a Council, within the National Institute of Building Sciences, representing leaders of the building industry to provide expertise on the introduction, use and evaluation of cost-saving building technologies in buildings owned and operated by the federal government. The conferees hope that the use of new technologies in federal buildings by state and local public agencies would facilitate their adoption by the private sector. These technologies would first be approved by the Council and would be guaranteed by the manufacturer.

The Council would analyze and evaluate building technologies applicable to whole buildings, building systems, components, and materials, design and construction processes, civil construction technologies and other relevant areas identified by the Council, on the basis of cost, resource conservation, environmental impact, function, security, regulatory needs of health, safety and welfare, user comfort, and aesthetics. To the extent possible, cost-saving technologies which can be applied to the housing industry shall be given highest priority.

In order to make housing in America more affordable, the building industry must begin to reexamine both the materials and techniques used in building construction. The unique characteristics of the building industry which is highly diversified and consists primarily of small businesses, make it difficult, however, for designers, architects, contractors, and other building specialists to assume the risks associated with developing and implementing new innovative building technologies. Although the federal government currently supports research and development of technologies that could be applied to buildings, no mechanism exists to facilitate the acceptance of the new technologies and their absorption into the private market. Federal construction and renovation projects can benefit by implementing the cost-saving technologies and can facilitate the introduction of the technology to the private housing construction market.

It is of critical importance to the effectiveness of this program that those federal agencies which construct, renovate, and operate buildings are able and willing to participate in using these new technologies. In most cases, the new technology recommended by the Council for use in the federal buildings would be produced by only a single manufacturer. It is the conferees' understanding that, in light of the priority this legislation creates for agency utilization of the new technologies,

the existing sole source and related procurement regulations will apply in these instances so that the agencies will have no difficulty using the recommended new technologies in their projects. The conferees, therefore, found no need to include section 1105(c) of the Senate bill in the final legislation. If any regulatory difficulties hinder a federal agency's participation in the program, these difficulties and recommendations for overcoming them should be outlined in the Council's first annual report to Congress.

Although the Council is being established within the National Institute of Building Sciences, it is to operate as a separate program, with support and assistance from the Institute as needed. It is not the intent of the conferees for NIBS to review or alter the Advanced Building Technology Council's program. The Council will be appointed separately by the Secretary of HUD and no members of the NIBS Advisory Council may serve simultaneously on the Advanced Building Technology Council. The Institute, which shares a common goal of improving the construction of American buildings, shall assist the Council in its efforts to collect and disseminate information on building research, technology development, testing and evaluation of building techniques and technologies.

Fair housing initiatives program. The House amendment contained a provision that would authorize for grants under the fair housing initiatives program $6,000,000 for FY 1991, of which not more than $3,000,000 in each year would be for the private enforcement initiative demonstration. The House amendment would have also extended the program until September 30, 1991. The Senate bill contained a provision that would authorize $6,000,000 for FY 1991, $6,258,000 for FY 1992 and $6,527,000 for FY 1993. The conference report contains an authorization including any program evaluations of $6,000,000 for FY 1991 and $6,300,000 for FY 1992 of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration. The program is extended until September 30, 1992.

Collection and maintenance of data regarding programs under HUD. The House amendment contained a provision that was not included in the Senate bill that would allow program evaluation and monitoring funds to be used for collecting and maintaining data on HUD programs and it would require that new homeownership and assisted housing programs authorized by this Act be subject to the program evaluation and monitoring provisions of the Department of HUD Act. The conference report contains the House provision.

Davis-Bacon exemption. The House amendment contained a provision that would exempt from Davis-Bacon Act requirements, volunteer laborers or mechanics working on projects financed by CDBG under the United States Housing Act of 1937 and on Section 202 projects. The Senate bill contained a provision that would allow but not require exemption from Davis-Bacon Act requirements for section 202 volunteers. The Senate bill did not specify when these would take effect nor whether the repayment of any wages would be required. The conference report contains the House provision amended to provide for a Davis-Bacon exemption under the community development block grant program when the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work. An exemption would be provided under public housing and section 8 assistance, when an individual receives no compensation or is paid expenses, reasonable benefits or a nominal fee to perform the services for which the individual volunteered.

The House amendment contained a provision that was not included in the Senate bill that would provide that the amendments made by this section apply to any volunteer services provided before, on, or after the enactment date of this Act, except that such amendments may not be construed to require the repayment of any wages paid before this Act's enactment date for services provided before such date. The conference report contains the House provision.

GAO study of Davis-Bacon applicability. The Senate bill contained a provision that was not included in the House amendment that would require the Comptroller General to carry out a study of the Davis-Bacon Act as it applies to Federal housing contracts. The Senate bill would have the Comptroller General consider (1) the original aims of the Davis-Bacon Act; (2) possible changes in the Davis-Bacon Act; (3) an analysis of the relevant construction industry labor market including geographic variations, skills, training, production, and quality of work product; (4) any productivity or quality differences between private and government sponsored construction; (5) the effects of the Davis-Bacon Act on Federal housing construction costs, construction quality, the local and national economy, and the ability to create low-income housing; and (6) the effects of business practices designed to avoid coverage of the Davis-Bacon Act. The conference report does not contain the Senate provision.

Eligibility under first-time homebuyer programs. The House amendment contained a provision that was not included in the Senate bill which would provide that no individual who is a displaced homemaker, or a single parent could be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse and the House amendment would define the term "displaced homemaker" as meaning an individual who (a) is an adult; (b) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; (c)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or (ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the AFDC program within 2 years after submission by the individual of an application under a Federal program to assist first-time homebuyers; and (d) is unemployed or underemployed and is experiencing difficulty in obtaining or up-grading employment. The House amendment contained a provision which would define the term "first-time homebuyer" as meaning an individual who has never, or has not during a specified time period, had any present ownership interest in a principal residence. The conference report contains the House provision amended to modify the definition of a first-time homebuyer.

Maximum annual limitation on rent increases. The House amendment contained a provision that was not included in the Senate bill that would prevent the Secretary from increasing the rent for any HUD assisted unit because of an increase in adjusted monthly income as a result of employment of a member of the family who was previously unemployed by more than 10% in each 12 month period during the 36-month period beginning upon such employment. The conference report does not contain the House provision.

Preferences for native Hawaiians on Hawaiian Homelands under HUD programs. The House amendment contained a provision that was not included in the Senate bill that would permit the Secretary to authorize preferences for native Hawaiians who seek occupancy in housing that is located on Hawaiian homelands and that is assisted under any housing assistance or mortgage insurance program administered by the Secretary. The conference report contains the House provision.

Waiver of matching funds requirement in Indian housing programs. The House amendment contained a provision that would authorize the Secretary to provide assistance under any housing program that provides assistance through an Indian housing authority without regard to any matching fund requirements, where an Indian housing authority has not received amounts for a fiscal year under title I of the 1974 Housing and Community Development Act and would provide that any assistance received from the Federal government by an Indian housing authority could be used by the Indian authority to fulfill any matching amount requirements under housing programs. The Senate bill contained a similar provision but would not provide that any available assistance received from the Federal Government by an Indian housing authority may be used by that housing authority to provide required matching funds under any housing program. The conference report contains the Senate provision.

Study of pension fund financing of housing. The Senate bill contained a provision that was not included in the House amendment that would require the Secretary to conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. The conference report contains the Senate provision.

Energy Efficiency Demonstration. The House amendment contained a provision that was not included in the Senate bill that would require the HUD Secretary to carry out a program to demonstrate various methods of improving the energy efficiency of existing housing and would authorize $2,000,000 in FY 1991 for such a demonstration. The conference report contains the House provision amended to allow the Secretary to use $2,000,000 of the amounts set aside under section 304(e) after funds have been made available for the purposes of section 304(e).

Joint venture for affordable housing. The House amendment contained a provision that was not included in the Senate bill that would require the Secretary to carry out a program to- (1) promote the development of information on affordable housing through reform of regulations, use of innovative construction and land planning techniques, and elimination of governmentally-imposed administrative restrictions inhibiting such development; and (2) study model growth communities, develop a database on building and regulatory innovations that reduce development costs, serve as a clearinghouse to share resource materials and ideas among joint venture partners, publicize through conferences, workshops, demonstrations, publications, and similar activities, methods of reducing construction costs through more effective and efficient planning, site development, and building procedures, examine the use of factory-built housing (including manufactured housing) as a

means of achieving affordable housing, and coordinate the activities of the Secretary that encourage and promote the objectives of this subsection. The conference report does not contain the House provision.

Buy American. The House amendment contained a provision that was not included in the Senate bill that would provide that where the HUD Secretary or the Agriculture Secretary (as appropriate) determine (with the concurrence of the U.S. Trade Representative) that the public interest so desires, then the Secretary is authorized to award to a domestic firm a contract pursuant to any grant under this Act that would be awarded to a foreign firm if (1) the final product of the domestic firm will be completely assembled in the U.S.; (2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and (3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent. In determining the public interest, the Secretary shall take into account U.S. international obligations and trade relations. The conference report does not contain the House provision.

Restrictions on contract awards. The House amendment contained a provision that was not included in the Senate bill that would prevent any person or enterprise operating under foreign law from entering into a contract or subcontract under this Act if that government unfairly maintains in government procurement a significant and persistent discrimination practice against U.S. products or services and this practice results in identifiable harm to U.S. businesses (as defined in section 305(g)(1)(a) of the 1979 Trade Agreement). The conference report does not contain the House provision.

Prohibition against fraudulent use of made in America labels. The House amendment contained a provision that was not included in the Senate bill that would require the HUD Secretary to declare any person ineligible to receive any Federal contract under this Act who intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the U.S. that is not made in America. The conference report does not contain the House provision.

Health Care Refinancing Provisions of the Housing and Community Development Act of 1987. Section 223(f) of the National Housing Act has long recognized the strong public policy service by permitting much needed hospital facilities to reduce the costs of the national healthcare obligation through the refinancing of high interest rate debt obligations whether or not such obligations had previously been insured by the Department of Housing and Urban Development. In furtherance of such vital public health healthcare policy, on December 21, 1987, Congress amended (1) Subsections 223(f) and 223(f)(4)(d) of that section to permit nursing home, intermediate care and board and care facilities to qualify for such refinancing programs, and (2) Section 223(f)(4)(d) to eliminate certain technical provisions which had made such healthcare refinancing programs unworkable. Congress further provided that "the Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment ... by not later than the expiration of the 90-day period following the enactment of this Act." This amendment was signed by the President on February 5, 1988. Despite this clear statement of Congressional policy, the Committee is concerned that such implementing regulations have not yet been promulgated by the Department of Housing and Urban Development. It remains its policy that programs which reduce the costs of vital national healthcare services through interest rate reductions on insured or uninsured debt be recognized, and that the amendments enacted by the Housing and Community Development Act of 1987 be promptly implemented to accomplish these worthwhile objectives through issuance of appropriate regulations no later than the expiration of the 60-day period following the date of the enactment of this bill.

Study on Enterprise Zones Development Corps. The Senate bill contained a provision not included in the House amendment that would require HUD to conduct a study on the feasibility of establishing a national volunteer corps made to share management and development expertise with entrepreneurial businesses in enterprise zones. The conference report does not contain the Senate provision.

Supportive Services. The Senate bill contained a title not included in the House amendment that would provide supportive services to special needs populations in low income housing and distressed neighborhoods. This title included provisions from the Gateway bill, the Projects to Aid Transition from Homelessness bill, the Homeless Youth Demonstration Program and the Homelessness Prevention and Community Revitalization Act. The conference report does not contain the Senate title.

Depositor Protection and Anti-Fraud Act. The Senate bill contained provisions not included in the House amendment that would regulate certain marketing activities engaged in on the premises of Federally insured depository institutions. The conference report does not contain the Senate provisions.

General Provisions

Old-Age, Survivors and Disability Insurance. The Senate bill contained a provision not included in the House amendment that would make consideration of any bill dealing with the public debt, or amendment or conference report, subject to a Senate point of order if Congress has not acted make Social Security an off-budget item. The conference report does not contain the Senate provision.

Video Equipment Use in Detecting Persons Driving Under the Influence of Alcohol or Controlled Substance. The Senate bill contained a provision not included in the House amendment that would amend title 23, U.S. Code section 408(f) to provide for the acquisition of video equipment to be used in detecting persons driving under the influence of alcohol or a controlled substance and in effectively prosecuting those persons. The conference report does not contain the Senate provision.

TITLE X–COINAGE DESIGNS

The Senate bill contained provisions not included in the House amendment that would require the redesign of the reverse side of the half dollar, quarter, dime, nickel and penny. The redesigns would be phased in over 6 years. One or more coins could be selected for redesign at the same time, but the first redesigned coin would have to commemorate the 200th anniversary of the U.S. Constitution. Subsequent coins would be redesigned to represent themes from the Bill of Rights and the separation of powers. The likenesses of president's who are currently represented on the obverse side of the coins would remain, but the likenesses could be redesigned. Current inscriptions on coins would not be affected. The designs would be selected by the Secretary of the Treasury after consultation with the U.S. Commission on Fine Arts. The conference report contains these provisions.

Expedited Funds Availability Amendment. The Senate bill contained a provision not included in the House amendment that would extend provisions of the Expedited Funds Availability Act through FY1994. The conference report contains the Senate provision with an amendment to make it a two year extension.

From the Committee on Banking, Finance and Urban Affairs:

Henry Gonzalez,
Mary Rose Oakar,
Bruce F. Vento,
Charles E. Schumer,
Barney Frank,
Esteban E. Torres,
Joe Kennedy,
Jim McDermott,
Chalmers P. Wylie,
Marge Roukema,
John Hiler,
Tom Ridge,
Steve Bartlett,

From the Committee on Ways and Means, for consideration of sec. 110 of the Senate bill and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Pete Stark,
Andrew Jacobs, Jr.,
Harold Ford,
Ed Jenkins,
Tom Downey,
Bill Archer,

Guy Vander Jagt,
Phil Crane,
Bill Frenzel,
Richard T. Schulze,

From the Committee on Education and Labor, for consideration of secs. 1006 and 1008 and subtitles D through G of title XIII of the Senate bill and sec. 768 of the House amendment and modifications committed to conference:

Augustus F. Hawkins,
William D. Ford,
Austin J. Murphy,
Dale E. Kildee,
Pat Williams,
M.G. Martinez,
Major R. Owens,
Tom Sawyer,
Bill Goodling,
Tom Petri,
Tom Tauke,
Peter Smith,

From the Committee on Energy and Commerce, for consideration of title XIV of the Senate bill and modifications committed to conference:

John D. Dingell,
Ed Markey,
Al Swift,
Cardiss Collins,
Mike Synar,
Billy Tauzin,
Ralph M. Hall,
Dennis E. Eckart,
Norman F. Lent,
Matt Rinaldo,
Carlos J. Moorhead,
Don Ritter,
Tom Bliley,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:

Donald Riegle,
Alan Cranston,
Paul Sarbanes,
Christopher Dodd,
Alan J. Dixon,
Alfonse D'Amato,
John Heinz,
Christopher S. Bond,
Connie Mack,

Managers on the Part of the Senate.

H.R. CONF. REP. 101-922, H.R. Conf. Rep. No. 922, 101ST Cong., 2ND Sess. 1990, 1990 WL 212064 (Leg.Hist.)

