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Title

Section

42 U.S. Code § 8013 - Supportive housing for persons with disabilities

U.S. Code Notes

(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;
- (2)** makes available supportive services that address the individual health, mental health, and other needs of such persons; and

(3) promotes and facilitates community integration for people with significant and long-term disabilities.

(b) AUTHORITY TO PROVIDE ASSISTANCE

The Secretary is authorized to take the following actions:

(1) TENANT-BASED ASSISTANCE

To provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4).

(2) CAPITAL ADVANCES

To provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

(A) capital advances in accordance with subsection (d)(1), and

(B) contracts for project rental assistance in accordance with subsection (d)(2);

assistance under this paragraph 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.

(3) PROJECT RENTAL ASSISTANCE

(A) In general

To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which

such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

(B) Contract terms

(i) Contract terms

Project rental assistance under this paragraph shall be provided—

(I) in accordance with subsection (d)(2); and

(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

(ii) Limitation on units assisted

Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

(iii) Prohibition of capital advances

The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

(iv) Eligible population

Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

(C) Eligible projects

An eligible project under this subparagraph is a new or existing multifamily housing project for which—

(i) the development costs are paid with resources from other public or private sources; and

(ii) a commitment has been made—

(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of title 26, for an allocation of such credits;

(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership^[1] Act [42 U.S.C. 12721 et seq.], for assistance from such jurisdiction; or

(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

(D) State agency involvement

Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], have entered into such agreements as the Secretary considers appropriate—

(i) to identify the target populations to be served by the project;

(ii) to set forth methods for outreach and referral; and

(iii) to make available appropriate services for tenants of the project.

(E) Use requirements

In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

(F) Report

Not later than 3 years after January 4, 2011, and again 2 years thereafter, the Secretary shall submit to Congress a report—

(i) describing the assistance provided under this paragraph;

- (ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act);^[2] and
- (iii) making recommendations regarding future models for assistance under this section.

(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 housing and community-based services 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) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;
 - (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 pursuant to subsection (b)(1) 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

(A) Initial project rental assistance contract

Contracts for project rental assistance shall comply with subsection (e)(2) and 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 amount provided under the contract for each year covered by the contract 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 amount provided under the contract for each year covered by the contract 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 [42 U.S.C. 1396 et seq.], 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 [42 U.S.C. 1381 et seq.].

(B) Renewal of and increases in contract amounts

(i) Expiration of contract term

Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

(ii) Emergency situations

In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.

(3) RENT CONTRIBUTION

A very low-income person shall pay as rent for a dwelling unit assisted under subsection (b)(2) 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 [42 U.S.C. 1396 et seq.] shall be the same amount as if the person were being assisted under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

(4) TENANT-BASED RENTAL ASSISTANCE

(A) In general

Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 1437f(o) of this title.

(B) Conversion of existing assistance

There is authorized to be appropriated for tenant-based rental assistance under section 1437f(o) of this title for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on January 4, 2011. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a "public housing agency" authorized to engage in the operation of tenant-based assistance under section 1437f of this title.

(C) Requirements upon turnover

The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 1437f(o) of this title for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.

(e) PROGRAM REQUIREMENTS

(1) USE RESTRICTIONS

(A) Term

Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

(B) Conversion

If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.

(2) CONTRACT TERMS

The initial term of a contract entered into under subsection (d)(2) shall be 240 months, except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of title 26 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months. The Secretary shall, to the extent approved in appropriation Acts, upon expiration of a contract (or any renewed contract), renew such 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.

(3) LIMITATION ON USE OF FUNDS

No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

(4) MULTIFAMILY PROJECTS

(A) Limitation

Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after January 4, 2011, the aggregate number that are used for persons with disabilities,

including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

(B) Exception

Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.

(f) APPLICATIONS

Funds made available under subsection (b)(2) shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under subsection (b)(2) 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 be offered supportive services based on their individual needs;
 - (C)** evidence of the applicant's experience in—
 - (i)** providing such supportive services; or
 - (ii)** creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;
 - (D)** a description of the manner in which such services will be provided to tenants; and
 - (E)** identification of the extent of other Federal, and 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 housing and community-based services 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 12705 of this title 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 AND PROCESSING

(1) SELECTION CRITERIA

The Secretary shall establish selection criteria for assistance under subsection (b)(2), which shall include—

- (A) the ability of the applicant to develop and operate the proposed housing;
- (B) the need for housing for persons with disabilities in the area to be served;
- (C) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;
- (D) the extent to which the applicant has demonstrated that appropriate supportive services will be made available on a consistent, long-term basis;
- (E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;
- (F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;
- (G) the extent to which the applicant has control of the site of the proposed housing; and
- (H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under subsection (b)(2) are used

effectively.

(2) DELEGATED PROCESSING

(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

- (i)** is in geographic proximity to the property;
- (ii)** has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;
- (iii)** may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and
- (iv)** agrees to issue a firm commitment within 12 months of delegation.

(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

(C) The Secretary shall—

- (i)** develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and
- (ii)** retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be

paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.

(h) DEVELOPMENT COST LIMITATIONS

(1) GROUP HOMES

The Secretary shall periodically establish development cost limitations by market area for group homes 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) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title; and

(F) 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. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project

assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

(2) RTC PROPERTIES

In the case of existing housing and related facilities from the Resolution Trust Corporation under section 1441a(c)² of title 12, 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 established pursuant to paragraph (1) 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 12709 of this title; (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 sources other than this section 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. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS

(A) In general

The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act [42 U.S.C. 12741 et seq.] that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

(B) Waivers

The Secretary may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

(ii) to provide for—

(I) the cost of special design features to make the housing accessible to persons with disabilities;

(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.

(i) ADMISSION AND OCCUPANCY

(1) TENANT SELECTION

(A) Procedures

An 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. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(B) Requirement for occupancy

Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

(C) Availability

Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

(D) Limitation on occupancy

Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

(2) TENANT PROTECTIONS

(A) Lease

The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(B) Termination of tenancy

An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

- (i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and
- (ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

(C) Voluntary participation in services

A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.

(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 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.] and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and ^[3]

(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) 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.

(5) LABOR STANDARDS

(A) In general

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 with 12 or more units assisted under this section 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 sections 3141–3144, 3146, and 3147 of title 40.

(B) Exemption

Subparagraph (A) shall not apply to any individual who—

- (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.

(6) USE OF PROJECT RESERVES

Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(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, which provides a separate bedroom for each tenant of the residence. 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 later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver. 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 who is 18 years of age or older and less than 62 years of age, and 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 15002 of this title. 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 dwelling units that—

(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.

(4) The term “independent living facility” means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe) in separate dwelling units where each dwelling unit includes a kitchen and a bath. Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.

(5) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for persons with disabilities.

(6) The term “private nonprofit organization” means any institution or foundation—

(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of title 26;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) 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

(D) which is approved by the Secretary as to financial responsibility.

Such term includes a for-profit limited partnership the sole general partner of which is an organization meeting the requirements under subparagraphs (A), (B), (C), and (D) or a corporation controlled by an organization meeting the requirements under subparagraphs (A), (B), (C), and (D).

(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 1437a(b)(2) of this title.

(I) ALLOCATION OF FUNDS

(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS

The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).

(2) CAPITAL ADVANCES

Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (d)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to November 28, 1990,^[4] shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(3) PROJECT RENTAL ASSISTANCE

Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (d)(2).

(m) AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015.

(n) 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 1701q of title 12 before November 28, 1990,⁴ 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 1701q of title 12](#) 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 1437f of this title](#), 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.

(Pub. L. 101-625, title VIII, § 811, Nov. 28, 1990, [104 Stat. 4324](#); Pub. L. 102-27, title II, Apr. 10, 1991, [105 Stat. 150](#); Pub. L. 102-550, title VI, §§ 601(d), 603, 623(a), title IX, § 913(b), Oct. 28, 1992, [106 Stat. 3803, 3805, 3818, 3877](#); Pub. L. 106-74, title V, §§ 512, 524(a), Oct. 20, 1999, [113 Stat. 1101, 1106](#); Pub. L. 106-402, title IV, § 401(b)(11), Oct. 30, 2000, [114 Stat. 1739](#); Pub. L. 106-569, title VIII, §§ 822, 841-845, Dec. 27, 2000, [114 Stat. 3020, 3022, 3023](#); Pub. L. 111-374, §§ 2(a), 3-6, Jan. 4, 2011, [124 Stat. 4089-4098](#); Pub. L. 116-260, div. Q, title I, § 101(d), Dec. 27, 2020, [134 Stat. 2164](#).)



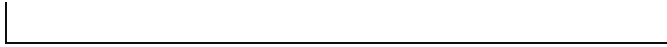
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