

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT

[Public Law 89–174; 79 Stat. 667; 42 U.S.C. 3531 et seq.]

[As Amended Through P.L. 114–201, Enacted July 29, 2016]

【Currency: This publication is a compilation of the text of Public Law 89–174. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Department of Housing and Urban Development Act”. [42 U.S.C. 3531 note]*

### DECLARATION OF PURPOSE

SEC. 2. [42 U.S.C. 3531] The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation’s communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation’s communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation’s communities and of the people who live and work in them.

## ESTABLISHMENT OF DEPARTMENT

SEC. 3. [42 U.S.C. 3532] (a) There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(b) The Secretary shall, among his responsibilities advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Nothing in this Act shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

(d) The Secretary shall—

(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 701 of the Housing and Community Development Act of 1987;

(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.

## UNDER SECRETARY AND OTHER OFFICERS AND OFFICES

SEC. 4. [42 U.S.C. 3533] (a)(1) There shall be in the Department a Deputy Secretary<sup>1</sup>, 7 Assistant Secretaries, and a general counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(2) There shall be in the Department an Assistant Secretary for Public Affairs, who shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(b) There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.

(c) There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned, and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

(e)(1)(A) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be located in the Office of the Assistant Secretary for Public and Indian Housing.

<sup>1</sup>Section 112(a)(4) of the Federal Employees Pay Comparability Act of 1990, which consists of section 529 of Pub. L. 101-509, approved November 5, 1990, replaced "Under Secretary" with "Deputy Secretary". Subsection (b) of such section deemed any reference to the "Under Secretary of Housing and Urban Development" in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date of enactment of such Act to be a reference to the "Deputy Secretary of Housing and Urban Development".

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The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after the date of enactment of this subsection.

(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report<sup>2</sup> which shall include—

(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

(B) estimate of the cost of the projected activities for succeeding fiscal years;

(C) a statistical report on the conditions of Indian and Alaska Native housing; and

(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.

(f) There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.<sup>3</sup>

<sup>2</sup>Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth *post* in this part, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This paragraph is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth *post* in this part, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this paragraph.

<sup>3</sup>The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 753, provides as follows: "That there shall be established, in the Office of the Secretary, an Office of Lead Based Paint Abatement and Poisoning Prevention to be headed by a career Senior Executive Service employee who shall be responsible for all lead-based paint abatement and poisoning prevention activities (including, but not limited to, research, abatement, training regulations and policy development)".

## (g) OFFICE OF HOUSING COUNSELING.—

(1) ESTABLISHMENT.—There is established, in the Department, the Office of Housing Counseling.

(2) DIRECTOR.—There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

## (3) FUNCTIONS.—

(A) IN GENERAL.—The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including—

(i) research, grant administration, public outreach, and policy development relating to such counseling; and

(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

(B) SPECIFIC FUNCTIONS.—The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for—

(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));

(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;

(iii) contributing to the distribution of home buying information booklets pursuant to section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604);

(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389, 106 Stat. 1593, provides as follows:

“Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead-Based Paint Abatement and Poisoning Prevention shall be contained within the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Development, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102-107.”

(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;

(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;

(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and

(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing.

(4) ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

(B) MEMBERS.—Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary.

(C) TERMS.—Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

(D) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

(E) PROHIBITION OF PAY; TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(F) ADVISORY ROLE ONLY.—The advisory committee shall have no role in reviewing or awarding housing counseling grants.

(5) SCOPE OF HOMEOWNERSHIP COUNSELING.—In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and pur-

chase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.

(h) SPECIAL ASSISTANT FOR VETERANS AFFAIRS.—

(1) POSITION.—There shall be in the Office of the Secretary a Special Assistant for Veterans Affairs, who shall report directly to the Secretary.

(2) APPOINTMENT.—The Special Assistant for Veterans Affairs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

(3) RESPONSIBILITIES.—The Special Assistant for Veterans Affairs shall be responsible for—

(A) ensuring veterans have fair access to housing and homeless assistance under each program of the Department providing either such assistance;

(B) coordinating all programs and activities of the Department relating to veterans;

(C) serving as a liaison for the Department with the Department of Veterans Affairs, including establishing and maintaining relationships with the Secretary of Veterans Affairs;

(D) serving as a liaison for the Department, and establishing and maintaining relationships with the United States Interagency Council on Homelessness and officials of State, local, regional, and nongovernmental organizations concerned with veterans;

(E) providing information and advice regarding—

(i) sponsoring housing projects for veterans assisted under programs administered by the Department; or

(ii) assisting veterans in obtaining housing or homeless assistance under programs administered by the Department;

(F) coordinating with the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs in carrying out section 404 of the Housing Opportunity Through Modernization Act of 2016;

(G) collaborating with the Department of Veterans Affairs on making joint recommendations to the Congress, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs on how to better coordinate and improve services to veterans under both Department of Housing and Urban Development and Department of Veteran Affairs veterans housing programs, including ways to improve the Independent Living Program of the Department of Veteran Affairs; and

(H) carrying out such other duties as may be assigned to the Special Assistant by the Secretary or by law.

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## TRANSFERS TO DEPARTMENT

SEC. 5. [42 U.S.C. 3534] (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads, and other officers and offices of said agencies.

(b) The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department. The next to the last sentence of section 308 of the Federal National Mortgage Association Charter Act is hereby repealed.

(c) The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this Act, none of the functions of the Secretary of the Interior authorized under chapter 2003 of title 54, United States Code, or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of the Reorganization Act of 1949 (63 Stat. 203), as amended, or by statute.

## CONFORMING AMENDMENTS

SEC. 6. (a) Section 19(d)(1) of title 3 of the United States Code is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development."

[(b) [Repealed.]]<sup>4</sup>

(c) The amendment made by subsection (b) of this section shall not be construed to make applicable to the Department any provision of law inconsistent with this Act.

## ADMINISTRATIVE PROVISIONS

SEC. 7. [42 U.S.C. 3535] (a) The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 5 of this Act are hereby transferred with such functions, powers, and duties, respectively.

[(b) [Repealed.]]

<sup>4</sup>Section 10(b), of Pub. L. 90-83, 81 Stat. 195, 233, approved Sept. 11, 1967, repealed this subsection, which amended section 158 of the Revised Statutes to include the Department of Housing and Urban Development. However, in section 10(b) of the Department of Transportation Act, Pub. L. 89-670, 80 Stat. 931, 948, approved October 15, 1966, the Department of Housing and Urban Development was included in the recodified section 101 of title 5, United States Code.



(c) The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys as shall be necessary to carry out the provisions of this Act and to prescribe their authority and duties: *Provided*, That any other provisions of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964.

(d) The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties. The second proviso of section 101(c) of the Housing Act of 1949 is hereby repealed.

(e) The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.

(f) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stocks of supplies and equipment on hand or on order as the Secretary shall direct. Such funds shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of

the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasurer of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

(i) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further*, That section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed \$2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary, including any provisions relating to the authority or requirements under paragraph (5).

(j) Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against pro-

gram beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k)(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequest shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(l) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(m) Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations.

(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed \$3,500.

(o)(1) Notwithstanding any other provision of law, the Secretary shall transmit 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<sup>5</sup> an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of the date of enactment of this subsection and at least semiannually thereafter.<sup>6</sup>

(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the 15-calendar day period beginning on the day after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days prior to its being published for comment in the Federal Register.

(B) Any rule or regulation which has not been published for comment before the date of enactment of this subsection and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days prior to its being published for comment.

(3) No rule or regulation may become effective until after the expiration of the 30-calendar day period beginning on the day after the day on which such rule or regulation is published as final. Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective

<sup>5</sup>Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

<sup>6</sup>Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth *post* in this part, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This paragraph is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth *post* in this part, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this paragraph.

until after the expiration of a public comment period of not less than 60 days.

(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

[(5) [Repealed.]]

[(6) [Repealed.]]

(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.

(p) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effects of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

(1) an estimate of cost savings supported by the background information detailing the source and substantiating the amount of the savings;

(2) an estimate of the additional cost which will result from the reorganization;

(3) a study of the impact on the local economy; and

(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.

(q)(1) Any waiver of regulations of the Department shall be in writing and shall specify the grounds for approving the waiver.

(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.

(3) The Secretary shall notify the public of all waivers of regulations approved by the Department. The notification shall be included in a notice in the Federal Register published not less than quarterly. Each notification shall cover the period beginning on the day after the last date covered by the prior notification, and shall—

(A) identify the project, activity, or undertaking involved;

(B) describe the nature of the requirement that has been waived and specify the provision involved;

(C) specify the name and title of the official who granted the waiver request;

(D) include a brief description of the grounds for approval of the waiver; and

(E) state how more information about the waiver and a copy of the request and the approval may be obtained.

(4) Any waiver of a provision of a handbook of the Department shall—

(A) be in writing;

(B) specify the grounds for approving the waiver; and

(C) be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.

(r)(1) For the programs listed in paragraph (2), amounts appropriated under this subsection shall be available to the Secretary for evaluating and monitoring of all such programs (including all aspects of the public housing and section 202 programs) and collecting and maintaining data for such purposes. The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program and collecting and maintaining data for such purposes.

(2) The programs subject to this subsection shall be the programs authorized under—

(A) titles I and II<sup>7</sup> of the United States Housing Act of 1937;

(B) section 202 of the Housing Act of 1959;

(C) section 106 of the Housing and Urban Development Act of 1968;

(D) the Fair Housing Act;

(E) title I and section 810 of the Housing and Community Development Act of 1974;

(F) section 201 of the Housing and Community Development Amendments of 1978;

(G) the Congregate Housing Services Act of 1978;

(H) section 222 of the Housing and Urban-Rural Recovery Act of 1983;

(I) section 561 of the Housing and Community Development Act of 1987;

(J) title IV of the Stewart B. McKinney Homeless Assistance Act<sup>8</sup>; and

(K) titles II, III, and IV and section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, and collecting and maintaining data pursuant to the authority under this subsection, the Secretary shall determine any need for additional staff and funding relating to evaluating and monitoring the programs under paragraph (2) and collecting and maintaining data for such purposes.

(4)(A) The Secretary may provide for evaluation and monitoring under this subsection and collecting and maintaining data for such purposes directly or by grants, contracts, or interagency agreements. Not more than 50 percent of the amounts made available under paragraph (1) may be used for grants, contracts, or interagency agreements.

(B) Any amounts not used for grants, contracts, or interagency agreements under subparagraph (A) shall be used in a manner that increases and strengthens the ability of the Department to monitor

<sup>7</sup>Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

<sup>8</sup>Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act provides that “[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the ‘McKinney-Vento Homeless Assistance Act’”.

and evaluate the programs under paragraph (2) and to collect and maintain data for such purposes through officers and employees of the Department.

(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994. Such amounts shall remain available until expended.

(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section \$988,000,000 for fiscal year 1993 and \$1,029,496,000 for fiscal year 1994.

(2) Of the amounts authorized to be appropriated by this section, \$96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

(3) Of the amounts authorized to be appropriated to carry out this section, not less than \$5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.

(t) TRAINING REGARDING ISSUES RELATING TO GRANDPARENT-HEADED AND RELATIVE-HEADED FAMILIES.—The Secretary shall ensure that all personnel employed in field offices of the Department who have responsibilities for administering the housing assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or the supportive housing program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and an appropriate number of personnel in the headquarters office of the Department who have responsibilities for those programs, have received adequate training regarding how covered families (as that term is defined in section 202 of the LEGACY Act of 2003) can be served by existing affordable housing programs.

#### ANNUAL REPORT

SEC. 8. <sup>9</sup> [42 U.S.C. 3536] The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year. The report required under this section shall include the reports required under paragraphs (2) and (6) of section 808(e) of the Civil Rights Act of 1968, the reports required under subsections (a) and (b) of section 1061 of the Housing and Community Development Act of 1992, the

<sup>9</sup> Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth *post* in this part, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This section is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth *post* in this part, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this section.

See, also, sections 802 and 817 of the Housing Act of 1954 and section 166 of the Housing and Community Development Act of 1987, which are set forth, *post*, this part.

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report required under section 802 of the Housing Act of 1954, and the report required under section 4(e)(2) of this Act.

**SAVINGS PROVISIONS**

**SEC. 9. [42 U.S.C. 3531 note]** (a) No cause of action by or against any agency whose functions are transferred by this Act, or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act, or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

(c) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act shall lapse.

**SEPARABILITY**

**SEC. 10. [42 U.S.C. 3537]** Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

**EFFECTIVE DATE AND INTERIM APPOINTMENTS**

**SEC. 11. [42 U.S.C. 3531 note]** (a) The provisions of this Act shall take effect upon the expiration of the first period of sixty cal-



endar days following the date on which this Act is approved by the President,<sup>10</sup> or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a) and 4(b) of this Act may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President.

(b) In the event that one or more officers required by this Act to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

#### PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS

SEC. 12. [42 U.S.C. 3537a] (a) PROHIBITED ACTIONS.—During any selection process, no officer or employee of the Department of Housing and Urban Development shall knowingly disclose any covered selection information regarding such selection, directly or indirectly, to any person other than a person authorized by the Secretary to receive such information.

(b) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violating applicant selected, subject to review and determination on the record after opportunity for a hearing;

(C) permit the violating applicant selected to continue to participate in the program; or

(D) take any other actions that the Secretary considers appropriate.

(c) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any employee of the Department knowingly and materially violates the prohibition in subsection (a), the Secretary may impose a civil money penalty on the employee in accordance with the provisions of this subsection. This penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary takes other disciplinary actions.

<sup>10</sup>The date of enactment was September 9, 1965.

(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, may not exceed \$10,000 for each violation.

(3) AGENCY PROCEDURES.—

(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection. The standards and procedures—

(i) shall provide for the Secretary or other official of the Department to make the determination to impose a penalty or to use an administrative entity to make the determination;

(ii) shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record; and

(iii) may provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable order. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(C) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under paragraph (2), consideration shall be given to such factors as the gravity of the offense, any history of prior disclosures of information on pending funding decisions made after the date of enactment of this section, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(D) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (4).

(4) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(A) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under paragraph (3)(A), an employee against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under paragraph (3)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(B) **OBJECTIONS NOT RAISED IN HEARING.**—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (3)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(C) **SCOPE OF REVIEW.**—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(D) **ORDER TO PAY PENALTY.**—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(5) **ACTION TO COLLECT PENALTY.**—If any employee fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (3)(A) and (4), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the employee and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(6) **SETTLEMENT BY SECRETARY.**—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

(7) **DEPOSIT OF PENALTIES.**—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

(d) **CRIMINAL PENALTIES.**—Whoever willfully violates subsection (a) by making a disclosure prohibited by subsection (a) to any applicant, or any officer, employee, representative, agent, or consultant of any applicant, shall be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, or both.

(e) **DEFINITIONS.**—For purposes of this section:

(1) **APPLICANT.**—The term "applicant" means any applicant or candidate that is being considered for receiving assistance.

(2) **ASSISTANCE.**—The term "assistance" means any grant, loan, subsidy, guarantee, or other financial assistance under a program administered by the Secretary that provides by statute, regulation, or otherwise for the competitive distribution of such assistance. The term does not include any mortgage insurance provided under a program administered by the Secretary.

(3) COVERED SELECTION INFORMATION.—The term “covered selection information” means—

(A) any information that is contained in any application or request for assistance, or any information regarding the decision of the Secretary to make available assistance or other information that is determined by the Secretary to be information that is not generally available to the public (not including program requirements and timing of the decision to make assistance available); and

(B) any information that is required by statute, regulation, or order to be confidential.

(4) KNOWINGLY.—The term “knowingly” means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(5) SELECTION.—The term “selection” means the determination of which applicants for assistance are to receive assistance under the program.

(6) SELECTION PROCESS.—The term “selection process” means the period with respect to a selection for assistance that begins with the development, preparation, and issuance of a solicitation or request for applications for the assistance and concludes with the selection of recipients of assistance, and includes the evaluation of applications.

(f) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(g) APPLICABILITY.—This section shall apply only with respect to violations that occur on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.

#### 【 REGISTRATION OF CONSULTANTS 】

#### 【SEC. 13. 【Repealed.】 】

#### PROHIBITION OF LUMP-SUM PAYMENTS

SEC. 14. [42 U.S.C. 3537c] In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

(1) moving expenses;

(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

(3) any incidental expenses related to paragraph (1) or (2).