

AMENDMENTS

1997—Pub. L. 105-33 substituted “not lawfully present in the United States” for “unlawfully in the United States” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of Title 8, Aliens and Nationality.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1437z. Exchange of information with law enforcement agencies

Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 1437d or 1437f of this title with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this chapter, if the officer—

- (1) furnishes the public housing agency with the name of the recipient; and
- (2) notifies the agency that—
 - (A) such recipient—
 - (i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or
 - (ii) is violating a condition of probation or parole imposed under Federal or State law; or
 - (iii) has information that is necessary for the officer to conduct the officer’s official duties;
 - (B) the location or apprehension of the recipient is within such officer’s official duties; and
 - (C) the request is made in the proper exercise of the officer’s official duties.

(Sept. 1, 1937, ch. 896, title I, § 28, formerly § 27, as added Pub. L. 104-193, title IX, § 903(b), Aug. 22, 1996, 110 Stat. 2348; renumbered § 28, Pub. L. 105-65, title V, § 562(a)(1), Oct. 27, 1997, 111 Stat. 1416.)

§ 1437z-1. Civil money penalties against section 1437f owners**(a) In general****(1) Effect on other remedies**

The penalties set forth in this section shall be in addition to any other available civil rem-

edy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) Failure of Secretary

The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) Violations of housing assistance payment contracts for which penalty may be imposed**(1) Liable parties**

The Secretary may impose a civil money penalty under this section on—

- (A) any owner of a property receiving project-based assistance under section 8 [42 U.S.C. 1437f];
- (B) any general partner of a partnership owner of that property; and
- (C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) Violations

A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

- (A) failure to provide decent, safe, and sanitary housing pursuant to section 8 [42 U.S.C. 1437f]; or
- (B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) Amount of penalty

The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed \$25,000 per violation.

(c) Agency procedures**(1) Establishment**

The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

- (A) shall provide for the Secretary or other department official to make the determination to impose the penalty;
- (B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and
- (C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

(2) Final orders**(A) In general**

If a hearing is not requested before the expiration of the 15-day period beginning on

the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

(B) Effect of review

If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) Failure to review

If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

- (A) the gravity of the offense;
- (B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);
- (C) the ability of the violator to pay the penalty;
- (D) any injury to tenants;
- (E) any injury to the public;
- (F) any benefits received by the violator as a result of the violation;
- (G) deterrence of future violations; and
- (H) such other factors as the Secretary may establish by regulation.

(4) Payment of penalty

No payment of a civil money penalty levied under this section shall be payable out of project income.

(d) Judicial review of agency determination

Judicial review of determinations made under this section shall be carried out in accordance with section 1735f-15(e) of title 12.

(e) Remedies for noncompliance

(1) Judicial intervention

(A) In general

If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), 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 that person or entity and such other relief as may be available.

(B) Fees and expenses

Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(2) Nonreviewability of determination or order

In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) Deposit of penalties

(1) In general

Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this chapter, as determined by the Secretary.

(2) Exception

Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) Definitions

In this section—

(1) the term “agent employed to manage the property that has an identity of interest” means an entity—

- (A) that has management responsibility for a project;
- (B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and
- (C) over which such ownership entity exerts effective control; and

(2) the term “knowing” means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(Sept. 1, 1937, ch. 896, title I, §29, as added Pub. L. 105-65, title V, §562(a)(2), Oct. 27, 1997, 111 Stat. 1416.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 105-65, title V, §562(b), Oct. 27, 1997, 111 Stat. 1419, provided that: “The amendments made by subsection (a) [enacting this section and amending section 1437z of this title] shall apply only with respect to—

“(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

“(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.”

REGULATIONS

Pub. L. 105-65, title V, §562(c), Oct. 27, 1997, 111 Stat. 1419, provided that:

“(1) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall implement the amendments made by this section [enacting this section and amending section 1437z of this title] by

regulation issued after notice and opportunity for public comment.

“(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms ‘ownership interest in’ and ‘effective control’, as such terms are used in the definition of the term ‘agent employed to manage such property that has an identity of interest’.

“(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act [Oct. 27, 1997].”

§ 1437z-2. Public housing mortgages and security interests

(a) General authorization

The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) Terms and conditions

In making any authorization under subsection (a), the Secretary may consider—

- (1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;
- (2) the ability of the public housing agency to make payments on the mortgage or security interest; and
- (3) such other criteria as the Secretary may specify.

(c) No Federal liability

No action taken under this section shall result in any liability to the Federal Government.

(Sept. 1, 1937, ch. 896, title I, §30, as added Pub. L. 105-276, title V, §516, Oct. 21, 1998, 112 Stat. 2550.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z-3. Pet ownership in public housing

(a) Ownership conditions

A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) Reasonable requirements

The reasonable requirements referred to in subsection (a) may include—

- (1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having

pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

(2) limitations on the number of animals in a unit, based on unit size;

(3) prohibitions on—

(A) types of animals that are classified as dangerous; and

(B) individual animals, based on certain factors, including the size and weight of the animal; and

(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) Pet ownership in public housing designated for occupancy by elderly or handicapped families

For purposes of this section, the term “public housing” has the meaning given the term in section 1437a(b) of this title, except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 1701r-1(d) of title 12.

(d) Regulations

This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5 applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(Sept. 1, 1937, ch. 896, title I, §31, as added Pub. L. 105-276, title V, §526, Oct. 21, 1998, 112 Stat. 2568.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z-4. Resident homeownership programs

(a) In general

A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) Participating units

A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.