

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 8 - LOW-INCOME HOUSING
SUBCHAPTER III - MISCELLANEOUS PROVISIONS

§ 1440. State housing finance and development agencies

(a) Statement of purpose; participation by private and nonprofit developers in activities assisted

It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to

- (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income,
- (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas,
- (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or
- (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum participation by private and nonprofit developers in activities assisted under this section.

(b) Determination of eligibility for assistance; definitions

- (1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a) of this section.
- (2) For the purpose of this section—
 - (A) the term “State housing finance or State development agency” means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;
 - (B) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and
 - (C) the term “Secretary” means the Secretary of Housing and Urban Development.

(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed

- (1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a) of this section, except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) of this section may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act [42 U.S.C. 5301 et seq.] or under any other program determined to be acceptable by the Secretary for this purpose.
- (2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 33 1/3 per centum of

the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h)(2) of this section, except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(5) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section as he considers reasonable.

(6) There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under paragraph (2) of this subsection, and payments pursuant to such contracts shall not exceed \$50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by \$60,000,000 on July 1, 1975. The aggregate principal amount of the obligations which may be guaranteed under this section and outstanding at any one time shall not exceed \$500,000,000.

(d) Requirements for guaranteed obligations

The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under subsection (c) of this section will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of the Treasury; composition; availability, issuance of obligations to Secretary of the Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of the Treasury of obligations; payment of expenses and charges

(1) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under subsection (c) of this section and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. Such revolving fund shall be comprised of

(A) receipts from fees and charges;

(B) recoveries under security, subrogation, and other rights;

(C) repayments, interest income, and any other receipts obtained in connection with guarantees made under subsection (c) of this section;

(D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and

(E) such sums, which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall

be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by subsection (c) of this section. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include purchases of the obligations hereunder.

(3) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this subsection, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(f) Technical assistance to agencies for planning and execution of development activities

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State housing finance or State development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this section.

(g) Labor standards

All laborers and mechanics employed by contractors or subcontractors in housing or development activities assisted under this section shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40: Provided, That this section shall apply to the construction of residential property only if such property is designed for residential use for eight or more families. No assistance shall be extended under this section with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 3145 of title 40.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies

(1) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary, in addition to any authority otherwise vested to him, shall—

(A) have the power, notwithstanding any other provision of law, in connection with any guarantee under this section, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State housing finance or State development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided a guarantee pursuant to this section. 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. Notwithstanding any other provision of law,

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this section.

(2) With respect to any obligation issued by a State housing finance or State development agency for which the issuer has elected to receive the benefits of the assistance provided under this section, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(Pub. L. 93–383, title VIII, § 802(a)–(h), Aug. 22, 1974, 88 Stat. 722–724; Pub. L. 98–479, title II, § 203(1)(4), Oct. 17, 1984, 98 Stat. 2231.)

References in Text

This Act, referred to in subsec. (c)(1), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (g), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

Codification

In subsec. (g), “sections 3141–3144, 3146, and 3147 of title 40” substituted for “the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5)” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)” on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the United States Housing Act of 1937 which comprises this chapter.

Amendments

1984—Subsec. (e)(2). Pub. L. 98–479 substituted “chapter 31 of title 31” for “the Second Liberty Bond Act” and “such chapter” for “that Act”.