

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 8 - LOW-INCOME HOUSING
SUBCHAPTER I - GENERAL PROGRAM OF ASSISTED HOUSING

§ 1437j. Labor standards and community service requirement

(a) Payment of wages prevailing in locality

Any contract for loans, contributions, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 1437f of this title, where the public housing agency or the Secretary and the builder or sponsor enter into agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Exception for volunteers

Subsection (a) of this section and the provisions relating to wages (pursuant to subsection (a) of this section) in any contract for loans, annual contributions, sale, or lease pursuant to this chapter, shall not apply to any individual that—

- (1) performs services for which the individual volunteered;
- (2) (A) does not receive compensation for such services; or
(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and
- (3) is not otherwise employed at any time in the construction work.

(c) Community service requirement

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

- (A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or
- (B) participate in an economic self-sufficiency program (as that term is defined in subsection (g) of this section) for 8 hours per month.

(2) Exemptions

The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

- (A) is 62 years of age or older;
- (B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416 (i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;
- (C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607 (d)), as in effect on and after July 1, 1997);¹
- (D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C.

601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) Annual determinations

(A) Requirement

For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 1437d (1)(1) of this title, review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) Due process

Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) Noncompliance

If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

(i) shall notify the resident—

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k);² and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) Ineligibility for occupancy for noncompliance

A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) Inclusion in plan

Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) Geographic location

The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) Prohibition against replacement of employees

In carrying out this subsection, a public housing agency may not—

- (A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or
- (B) supplant a job at any location at which community work requirements are fulfilled.

(8) Third-party coordinating

A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d) Treatment of income changes resulting from welfare program requirements

(1) Covered family

For purposes of this subsection, the term “covered family” means a family that

- (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and
- (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 1437f of this title.

(2) Decreases in income for failure to comply

(A) In general

Notwithstanding the provisions of section 1437a (a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a (b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) No reduction based on time limit for assistance

For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning on October 21, 1998.

(3) Effect of fraud

Notwithstanding the provisions of section 1437a (a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a (b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning on October 21, 1998.

(4) Notice

Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this chapter on behalf of the family obtains written notification from the

relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) Occupancy rights

This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 1437f of this title.

(6) Review

Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 1437d (k) of this title for the public housing agency.

(7) Cooperation agreements for economic self-sufficiency activities

(A) Requirement

A public housing agency providing public housing dwelling units or tenant-based assistance under section 1437f of this title for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) of this section and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

(B) Contents

A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 1437f of this title, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

(C) Confidentiality

This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

(e) Lease provisions

A public housing agency shall incorporate into leases under section 1437d (l) of this title and into agreements for the provision of tenant-based assistance under section 1437f of this title, provisions incorporating the conditions under subsection (d) of this section.

(f) Treatment of income

Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 1437f of this title, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

(g) Definition

For purposes of this section, the term “economic self-sufficiency program” means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.

Footnotes

¹ So in original. Probably should be only one closing parenthesis.

² See References in Text note below.

(Sept. 1, 1937, ch. 896, title I, § 12, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 667; amended Pub. L. 97–35, title III, § 322(c), Aug. 13, 1981, 95 Stat. 402; Pub. L. 100–242, title I, § 112(b)(5), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, § 572(2), title IX, § 955(b), Nov. 28, 1990, 104 Stat. 4236, 4421; Pub. L. 105–276, title V, § 512(a), Oct. 21, 1998, 112 Stat. 2539.)

References in Text

The Social Security Act, referred to in subsec. (c)(2)(D), (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Subsection (k), referred to in subsec. (c)(3)(C)(i)(II), probably means section 1437d (k) of this title, which relates to administrative grievance procedures. This section does not contain a subsec. (k).

Codification

In subsec. (a), “sections 3141–3144, 3146, and 3147 of title 40” substituted for “the Davis-Bacon Act (49 Stat. 1011)” 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.

Prior Provisions

A prior section 12 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, authorized the disposal of low-rent housing projects transferred to or acquired by the Authority and was classified to section 1412 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Amendments

1998—Pub. L. 105–276, § 512(a)(1), inserted “and community service requirement” after “Labor standards” in section catchline.

Subsecs. (c) to (g). Pub. L. 105–276, § 512(a)(2), added subsecs. (c) to (g).

1990—Pub. L. 101–625, § 955(b), designated existing provisions as subsec. (a) and added subsec. (b).

Pub. L. 101–625, § 572(2), substituted “low-income housing” for “lower income housing”.

1988—Pub. L. 100–242 struck out “annual” before “contributions”.

1981—Pub. L. 97–35 substituted reference to lower income for reference to low-income.

Effective Date of 1998 Amendment

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Effective Date of 1990 Amendment

Section 955(d) of Pub. L. 101–625 provided that: “The amendments made by this section [amending this section, section 5310 of this title, and section 1701q of Title 12, Banks and Banking] shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act [Nov. 28, 1990], except that such amendments may

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not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date.”

Effective Date of 1981 Amendment

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.