

OMNIBUS INDIAN ADVANCEMENT ACT

SEC. 1003. NATIVE AMERICAN HOUSING ASSISTANCE.

(a) RESTRICTION ON WAIVER AUTHORITY.—

(1) IN GENERAL.—Section 101(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(b)(2)) is amended by striking “if the Secretary” and all that follows through the period at the end and inserting the following: “for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe.”.

(2) LOCAL COOPERATION AGREEMENT.—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(c)) is amended by adding at the end the following: “The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d).”.

(b) ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.—

Section 102(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112(c)) is amended by adding at the end the following:

“(6) CERTAIN FAMILIES.—With respect to assistance provided under section 201(b)(2) by a recipient to Indian families that are not low-income families, evidence that there is a need for housing for each such family during that period that cannot reasonably be met without such assistance.”.

(c) ELIMINATION OF WAIVER AUTHORITY FOR SMALL TRIBES.—

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(d) ENVIRONMENTAL COMPLIANCE.—Section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115) is amended by adding at the end the following:

“(d) ENVIRONMENTAL COMPLIANCE.—The Secretary may waive the requirements under this section if the Secretary determines that a failure on the part of a recipient to comply with provisions of this section—

“(1) will not frustrate the goals of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) or any other provision of law that furthers the goals of that Act;

“(2) does not threaten the health or safety of the community involved by posing an immediate or long-term hazard to residents of that community;

“(3) is a result of inadvertent error, including an incorrect or incomplete certification provided under subsection (c)(1); and

“(4) may be corrected through the sole action of the recipient.”.

(e) ELIGIBILITY OF LAW ENFORCEMENT OFFICERS FOR HOUSING

PUBLIC LAW 106-568—DEC. 27, 2000

ASSISTANCE.—Section 201(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)) is amended—

- (1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (4)”;
- (2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and
- (3) by inserting after paragraph (3) the following new paragraph:

“(4) LAW ENFORCEMENT OFFICERS.—A recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act for a law enforcement officer on an Indian reservation or other Indian area, if—

“(A) the officer—

“(i) is employed on a full-time basis by the Federal Government or a State, county, or lawfully recognized tribal government; and

“(ii) in implementing such full-time employment, is sworn to uphold, and make arrests for, violations of Federal, State, county, or tribal law; and

“(B) the recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.”.

(f) OVERSIGHT.—

(1) REPAYMENT.—Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended to read as follows:

“**SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT.**

“If a recipient uses grant amounts to provide affordable housing under this title, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a).”.

(2) AUDITS AND REVIEWS.—Section 405 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4165) is amended to read as follows:

“**SEC. 405. REVIEW AND AUDIT BY SECRETARY.**

“(a) REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.—An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

“(b) ADDITIONAL REVIEWS AND AUDITS.—

“(1) IN GENERAL.—In addition to any audit or review under subsection (a), to the extent the Secretary determines such action to be appropriate, the Secretary may conduct an audit or review of a recipient in order to—

“(A) determine whether the recipient—

“(i) has carried out—

“(I) eligible activities in a timely manner; and

“(II) eligible activities and certification in

accordance with this Act and other applicable law;

“(ii) has a continuing capacity to carry out eligible activities in a timely manner; and

“(iii) is in compliance with the Indian housing

PUBLIC LAW 106–568—DEC. 27, 2000

plan of the recipient; and

“(B) verify the accuracy of information contained in any performance report submitted by the recipient under section 404.

“(2) ON-SITE VISITS.—To the extent practicable, the reviews and audits conducted under this subsection shall include onsite visits by the appropriate official of the Department of Housing and Urban Development.

“(c) REVIEW OF REPORTS.—

“(1) IN GENERAL.—The Secretary shall provide each recipient that is the subject of a report made by the Secretary under this section notice that the recipient may review and comment on the report during a period of not less than 30 days after the date on which notice is issued under this paragraph.

“(2) PUBLIC AVAILABILITY.—After taking into consideration any comments of the recipient under paragraph (1), the Secretary—

“(A) may revise the report; and

“(B) not later than 30 days after the date on which those comments are received, shall make the comments and the report (with any revisions made under subparagraph (A)) readily available to the public.

“(d) EFFECT OF REVIEWS.—Subject to section 401(a), after reviewing the reports and audits relating to a recipient that are submitted to the Secretary under this section, the Secretary may adjust the amount of a grant made to a recipient under this Act in accordance with the findings of the Secretary with respect to those reports and audits.”.

(g) ALLOCATION FORMULA.—Section 302(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152(d)(1)) is amended—

(1) by striking “The formula,” and inserting the following:

“(A) IN GENERAL.—Except with respect to an Indian tribe described in subparagraph (B), the formula”;

(2) by adding at the end the following:

“(B) CERTAIN INDIAN TRIBES.—With respect to fiscal year 2001 and each fiscal year thereafter, for any Indian tribe with an Indian housing authority that owns or operates fewer than 250 public housing units, the formula shall provide that if the amount provided for a fiscal year in which the total amount made available for assistance under this Act is equal to or greater than the amount made available for fiscal year 1996 for assistance for the operation and modernization of the public housing referred to in subparagraph (A), then the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) for the period beginning with fiscal year 1992 and ending with fiscal year 1997.”.

(h) HEARING REQUIREMENT.—Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs

PUBLIC LAW 106-568—DEC. 27, 2000

(A) through (D), respectively, and realigning such subparagraphs (as so redesignated) so as to be indented 4 ems from the left margin;

Deadline.

Deadline.

(2) by striking “Except as provided” and inserting the following:

“(1) IN GENERAL.—Except as provided”;

(3) by striking “If the Secretary takes an action under paragraph (1), (2), or (3)” and inserting the following:

“(2) CONTINUANCE OF ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)”;

and

(4) by adding at the end the following:

“(3) EXCEPTION FOR CERTAIN ACTIONS.—
“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

“(B) PROCEDURAL REQUIREMENT.—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

“(i) provide notice to the recipient at the time that the Secretary takes that action; and

“(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

“(C) DETERMINATION.—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection.”.

(i) PERFORMANCE AGREEMENT TIME LIMIT.—Section 401(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(b)) is amended—

(1) by striking “If the Secretary” and inserting the following:

“(1) IN GENERAL.—If the Secretary”;

(2) by striking “(1) is not” and inserting the following:

“(A) is not”;

(3) by striking “(2) is a result” and inserting the following:

“(B) is a result”;

(4) in the flush material following paragraph (1)(B), as redesignated by paragraph (3) of this subsection—

(A) by realigning such material so as to be indented 2 ems from the left margin; and

(B) by inserting before the period at the end the following:

“, if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement”;

and

(5) by adding at the end the following:

“(2) PERFORMANCE AGREEMENT.—The period of a performance

PUBLIC LAW 106–568—DEC. 27, 2000

agreement described in paragraph (1) shall be for 1 year.

“(3) REVIEW.—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

“(4) EFFECT OF REVIEW.—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

“(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

“(B) has failed to make a good faith effort to meet applicable compliance objectives, the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a).”.

(j) LABOR STANDARDS.—Section 104(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(b)) is amended—

(1) in paragraph (1), by striking “Davis-Bacon Act (40 U.S.C. 276a–276a–5)” and inserting “Act of March 3, 1931 (commonly known as the Davis-Bacon Act; chapter 411; 46 Stat. 1494; 40 U.S.C. 276a et seq.)”; and

(2) by adding at the end the following new paragraph:

“(3) APPLICATION OF TRIBAL LAWS.—Paragraph (1) shall not apply to any contract or agreement for assistance, sale, or lease pursuant to this Act, if such contract or agreement is otherwise covered by one or more laws or regulations adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe.”.

(k) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents—

(A) by striking the item relating to section 206; and

(B) by striking the item relating to section 209 and inserting the following:

“209. Noncompliance with affordable housing requirement.”.

(2) CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is repealed.

(3) TERMINATIONS.—Section 502(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181(a)) is amended by adding at the end the following:

“Any housing that is the subject of a contract for tenantbased assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter, be considered to be a dwelling unit under section 302(b)(1).”.