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UNITED STATES CODE ANNOTATED
TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 8--LOW-INCOME HOUSING

→ **§ 1436a. Restriction on use of assisted housing by non-resident aliens**

(a) Conditions for assistance

Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is--

- (1) an alien lawfully admitted for permanent residence as an immigrant as defined by [section 1101\(a\)\(15\)](#) and [\(20\) of Title 8](#), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
- (2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to [section 1259 of Title 8](#);
- (3) an alien who is lawfully present in the United States pursuant to an admission under [section 1157 of Title 8](#) or pursuant to the granting of asylum (which has not been terminated) under [section 1158 of Title 8](#);
- (4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to [section 1182\(d\)\(5\) of Title 8](#);
- (5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to [section 1231\(b\)\(3\) of Title 8](#);
- (6) an alien lawfully admitted for temporary or permanent residence under [section 1255a of Title 8](#); or
- (7) an alien who is lawfully resident in the United States and its territories and possessions under [section 141](#) of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia ([48 U.S.C. 1901](#) note) and Palau ([48 U.S.C. 1931](#) note) while the applicable section is in effect: *Provided*, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

(b) "Financial assistance" defined

- (1) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937 [[42 U.S.C.A. § 1437](#) et seq.], [section 1715z](#) or [1715z-1 of Title 12](#), the direct loan program under [section 1472](#) of this title or [section 1472\(c\)\(5\)\(D\)](#), [1474](#), [1490a\(a\)\(2\)\(A\)](#), or [1490r](#) of this title, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [[42 U.S.C.A. § 12851](#) et seq.], or section 101 of the Housing and Urban Development Act of 1965 [[12 U.S.C.A. § 17013](#)].

(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.

(c) Preservation of families; students

(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on February 5, 1988, is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937 [[42 U.S.C.A. § 1437f](#)]) or the applicable Secretary (in the case of any other financial assistance) shall take one of the following actions:

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a) of this section. For purposes of this paragraph, the term "family" means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse. Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section.

(B)(i) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing.

(ii) Except as provided in clause (iii), any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 18-months. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(iii) The time period described in clause (ii) shall not apply in the case of a refugee under [section 1157 of Title 8](#) or an individual seeking asylum under [section 1158 of Title 8](#).

(2) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of--

(A) any alien who--

(i) has a residence in a foreign country that such alien has no intention of abandoning;

(ii) is a bona fide student qualified to pursue a full course of study; and

(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails

to make such reports promptly the approval shall be withdrawn); and

- (B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.

(d) Conditions for provision of financial assistance for individuals

The following conditions apply with respect to financial assistance being or to be provided for the benefit of an individual:

(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status. If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the applicable Secretary, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the applicable Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance.

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on September 30, 1996, or applying for financial assistance on or after September 30, 1996, there must be presented either--

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the applicable Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

In the case of an individual applying for financial assistance on or after September 30, 1996, the applicable Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).

(3) If the documentation described in paragraph (2)(A) is presented, the applicable Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that--

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or

older, and is receiving financial assistance on September 30, 1996, or applying for financial assistance on or after September 30, 1996, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)--

(A) the applicable Secretary--

(i) shall provide a reasonable opportunity, not to exceed 30 days, to submit to the applicable Secretary evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),

(ii) in the case of any individual receiving assistance on September 30, 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(iii) in the case of any individual applying for financial assistance on or after September 30, 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)--

(i) the applicable Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the applicable Secretary may not--

(I) in the case of any individual receiving assistance on September 30, 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

(II) in the case of any individual applying for financial assistance on or after September 30, 1996, deny the application for such assistance on the basis of the immigration status of that individual; and

(iii) the applicable Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the applicable Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status, the applicable Secretary shall--

(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable;

(B) provide that the individual may request a fair hearing during the 30-day period beginning upon receipt of the notice under subparagraph (C); and

(C) provide to the individual written notice of the determination under this paragraph, the right to a fair hearing process, and the time limitation for requesting a hearing under subparagraph (C).

(6) The applicable Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

For purposes of this subsection, the term "applicable Secretary" means the applicable Secretary, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) Regulatory actions against entities for erroneous determinations regarding eligibility based upon citizenship or immigration status

The applicable Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status--

(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the entity, under subsection (d)(4)(A)(ii) of this section (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to provide a reasonable opportunity to submit documentation, or

(3) because the entity, under subsection (d)(4)(B)(ii) of this section (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to wait for the response to the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or the response from the Immigration and Naturalization Service to the appeal of that individual.

(f) Verification system; liability of State or local government agencies or officials; prior consent agreements, court decrees or court orders unaffected

(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) of this section if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to February 5, 1988.

(g) Reimbursement for costs of implementation

The applicable Secretary is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) of this section (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(h) "Applicable Secretary" defined

For purposes of this section, the term "applicable Secretary" means--

(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [[42 U.S.C.A. § 12851](#) et seq.]; and

(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.

(i) Verification of eligibility

(1) In general

No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least the individual or one family member under subsection (d) of this section by the applicable Secretary or other appropriate entity.

(2) Rules applicable to public housing agencies

A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937 [[42 U.S.C.A § 1437a](#)])--

(A) may, notwithstanding paragraph (1) of this subsection, elect not to affirmatively establish and verify eligibility before providing financial assistance [[FN1](#)]

(B) in carrying out subsection (d) of this section--

(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in [section 1324a\(b\)\(1\) of Title 8](#); and

(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

(3) Eligibility of families

For purposes of this subsection, with respect to a family, the term "eligibility" means the eligibility of each family member.

[[FN1](#)] So in original. Probably should be followed by "; and".

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P.L. 96-399, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980, [S. REP. 96-736](#), May 15, 1980

→ § 1436a. Restriction on use of assisted housing by non-resident aliens

CREDIT(S)

([Pub.L. 96-399, Title II, § 214](#), Oct. 8, 1980, 94 Stat. 1637; [Pub.L. 97- 35, Title III, § 329\(a\)](#), Aug. 13, 1981, 95 Stat. 408; [Pub.L. 99-603, Title I, § 121\(a\)\(2\), \(4\)](#), Nov. 6, 1986, 100 Stat. 3386; [Pub.L. 100-242, Title I, § 164\(a\)](#) to (f)(1), Feb. 5, 1988, 101 Stat. 1860 to 1863; [Pub.L. 104-193, Title IV, § 441\(a\)](#), Aug. 22, 1996, 110 Stat. 2276; [Pub.L. 104-208](#), Div. C, Title III, § 308(g)(7)(D)(ii), Title V, §§ 572 to 576, Sept. 30, 1996, 110 Stat. 3009-624, 3009-684 to 3009-687; [Pub.L. 105-276, Title V, § 592\(a\)](#), Oct. 21, 1998, 112 Stat. 2653; [Pub.L. 106-504, § 3\(b\)](#), Nov. 13, 2000, 114 Stat. 2312.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1980 Acts. [Senate Report Nos. 96-736, 96-724](#), and [96-716](#) and [House Conference Report No. 96-1420](#), see 1980 U.S. Code Cong. and Adm. News, p. 3506.

1981 Acts. [Senate Report No. 97-139](#) and [House Conference Report No. 97- 208](#), see 1981 U.S. Code Cong. and Adm. News, p. 396.

1986 Acts. [House Report No. 99-682\(Parts I to V\)](#) and [House Conference Report No. 99-1000](#), see 1986 U.S. Code Cong. and Adm. News, p. 5649.

1988 Acts. [House Report No. 100-122](#)(Parts I and II) and [House Conference Report No. 100-426](#), see 1987 U.S. Code Cong. and Adm. News, p. 3317.

1996 Acts. [House Report No. 104-651](#) and [House Conference Report No. 104- 725](#), see 1996 U.S. Code Cong. and Adm. News, p. 2183.

1998 Acts. [House Conference Report No. 105-769](#) and Statement by President, see 1998 U.S. Code Cong. and Adm. News, p. 545.

References in Text

This Act, referred to in subsec. (a)(7), means the Housing and Community Development Act of 1980, [Pub.L. 96-399](#), Oct. 8, 1980, 94 Stat. 1614, which enacted this section. See Tables for complete classification.

The United States Housing Act of 1937, referred to in subsec. (b), is Act Sept. 1, 1937, c. 896, as revised generally by [Pub.L. 93-383, Title II, § 201\(a\)](#), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to this chapter ([section 1437](#) et seq.). For complete classification of this Act to the Code, see Short Title note set out under [section 1437](#) of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (b) and (h)(1), is Pub.L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Subtitle A of Title III of that Act is classified to subchapter III (section 12851 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Housing and Urban Development Act of 1965, referred to in subsec. (b), is Pub.L. 89-117, Aug. 10, 1965, 79 Stat. 451. Section 101 of that Act, specifically referred to, enacted section 1701s of Title 12, Banks and Banking and amended sections 1451 and 1465 of this title.

The Immigration Reform and Control Act of 1986, referred to in subsecs. (e) and (g), is [Pub.L. 99-603](#), Nov. 6, 1986, 100 Stat. 3359. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1101 of Title 8, Aliens and Nationality, and Tables.

Codifications

Section was enacted as part of the Housing and Community Development Act of 1980, and not as part of the United States Housing Act of 1937, which comprises this chapter.

Amendments

2000 Amendments. Subsec. (a)(7). [Pub.L. 106-504, § 3\(b\)](#), added par. (7).

1998 Amendments. Subsec. (b)(2). [Pub.L. 105-276, § 592\(a\)\(1\)](#), struck out "Secretary of Housing and Urban Development" and inserted "applicable Secretary".

Subsec. (c)(1)(B). [Pub.L. 105-276, § 592\(a\)\(2\)](#), moved clauses (ii) and (iii) 2 ems to the left.

Subsec. (d)(1)(A). [Pub.L. 105-276, § 592\(a\)\(3\)\(A\)](#), struck out "Secretary of Housing and Urban Development" and inserted "applicable Secretary" preceding ", or the agency", and struck out "the Secretary" and inserted "the applicable Secretary" preceding "considers appropriate".

Subsec. (d)(2). [Pub.L. 105-276, § 592\(a\)\(3\)\(B\)](#), in the matter following subparagraph. (B), inserted "applicable" before "Secretary" and moved such matter 2 ems to the right.

Subsec. (d)(4)(B)(ii). [Pub.L. 105-276, § 592\(a\)\(3\)\(C\)](#), inserted "applicable" before "Secretary".

Subsec. (d)(5). [Pub.L. 105-276, § 592\(a\)\(3\)\(D\)](#), substituted "the applicable Secretary" for "the Secretary" following "satisfactory immigration status".

Subsec. (d)(6). [Pub.L. 105-276, § 592\(a\)\(3\)\(E\)](#), inserted "applicable" before "Secretary".

Subsec. (h). [Pub.L. 105-276, § 592\(a\)\(5\)](#), redesignated a former second subsec. (h) which had been added by [Pub.L. 104-208, § 576](#), relating to verification of eligibility, as subsec. (i).

Subsec. (i). [Pub.L. 105-276, § 592\(a\)\(4\), \(5\)](#), redesignated a former second subsec. (h) which had been added by [Pub.L. 104-208, § 576](#), relating to verification of eligibility, as subsec. (i), and in subsec. (i) as so redesignated in par. (1) struck out "Except in the case of an election under paragraph (2)(A), no" and inserted "No", struck out "this section" and inserted "subsection (d)", and inserted "applicable" before "Secretary"; and in par. (2) rewrote subparagraph. (A) which formerly read: "may elect not to comply with this section; and", and in subparagraph. (B) struck out "in complying with this section" and inserted "in carrying out subsec. (d)".

1996 Amendments. Subsec. (a). [Pub.L. 104-193, § 441\(a\)\(1\)](#), substituted "applicable Secretary" for "Secretary of Housing and Urban Development".

Subsec. (a)(5). [Pub.L. 104-208, § 308\(g\)\(7\)\(D\)](#)(ii), substituted "1231(b)(3)" for "1253(h)".

Subsec. (b). [Pub.L. 104-208, § 572](#), designated existing provisions par. (1) and added par. (2).

[Pub.L. 104-193, § 441\(a\)\(2\)](#), inserted reference to direct loan programs after reference to "Title 12".

Subsec. (c). [Pub.L. 104-193, § 441\(a\)\(1\)](#), substituted "applicable Secretary" for "Secretary of Housing and Urban Development" wherever appearing.

Subsec. (c)(1). [Pub.L. 104-208, § 573\(1\)](#), substituted "shall" for "may, in its discretion,".

Subsec. (c)(1)(A). [Pub.L. 104-208, § 573\(2\)](#), added provisions relating to assistance on prorated basis.

Subsec. (c)(1)(B). [Pub.L. 104-208, § 573\(3\)](#), restructured existing provisions as cls. (i) and (ii), and as so restructured added cl. (iii) and in cl. (ii), inserted reference to cl. (iii), and substituted "18-months" for "3 years".

Subsec. (d). [Pub.L. 104-208, § 574\(1\)](#), substituted "being or to be" for "being".

[Pub.L. 104-193, § 441\(a\)\(4\)](#), in closing par. substituted definition of "applicable Secretary" for definition of "Secretary".

Subsec. (d)(1)(A). [Pub.L. 104-208, § 574\(2\)](#), added provisions relating to procedure depending on whether or not declaration states individual is United States citizen or national.

Subsec. (d)(2). [Pub.L. 104-208, § 574\(3\)](#), added provision relating to assistance for individual applying on or after Sept. 30, 1996 and substituted "on September 30, 1996, or applying for financial assistance on or after that date" for "on February 5, 1988".

Subsec. (d)(2)(B). [Pub.L. 104-193, § 441\(a\)\(3\)](#), inserted "applicable" preceding "Secretary".

Subsec. (d)(3). [Pub.L. 104-193, § 441\(a\)\(3\)](#), inserted "applicable" preceding "Secretary".

Subsec. (d)(4). [Pub.L. 104-208, § 574\(4\)\(A\)](#), substituted "on September 30, 1996, or applying for financial assistance on or after that date" for "on February 5, 1988".

[Pub.L. 104-193, § 441\(a\)\(3\)](#), inserted "applicable" preceding "Secretary" wherever appearing.

Subsec. (d)(4)(A)(i). [Pub.L. 104-208, § 574\(4\)\(B\)\(i\)](#), inserted "not to exceed 30 days" following "reasonable opportunity".

Subsec. (d)(4)(A)(ii), (iii). [Pub.L. 104-208, § 574\(4\)\(B\)](#)(ii), added cl. (ii) and (iii). Former cl. (ii) relating to delay, denial, reduction or termination of eligibility on basis of immigration status without reasonable opportunity was struck out.

Subsec. (d)(4)(B)(ii). [Pub.L. 104-208, § 574\(4\)\(C\)](#), added cl. (ii). Former cl. (ii) relating to delay, denial, reduction or termination of eligibility pending verification or appeal on basis of immigration status was struck out.

Subsec. (d)(5). [Pub.L. 104-208, § 574\(5\)](#), added subpars. (A) to (C) and inserted "the Secretary shall" following "immigration status". Former subpars. (A) and (B) relating to denial or termination of eligibility by applicable Secretary and making fair hearing process available to individual, respectively, were struck out.

[Pub.L. 104-193, § 441\(a\)\(3\)](#), inserted "applicable" preceding "Secretary" wherever appearing.

Subsec. (d)(6). [Pub.L. 104-208, § 574\(6\)](#), added par. (6). Former par. (6) relating to description of fair hearing process was struck out.

[Pub.L. 104-193, § 441\(a\)\(3\)](#), inserted "applicable" preceding "Secretary" wherever appearing.

Subsec. (e). [Pub.L. 104-193, § 441\(a\)\(1\)](#), substituted "applicable Secretary" for "Secretary of Housing and Urban Development".

Subsec. (e)(3). [Pub.L. 104-208, § 575\(2\)](#), added provision relating to response from Immigration and Naturalization Service to individual's appeal.

Subsec. (e)(4). [Pub.L. 104-208, § 575\(1\), \(3\)](#), struck out par. (4) relating to fair hearing process as defense.

Subsec. (g). [Pub.L. 104-193, § 441\(a\)\(1\)](#), substituted "applicable Secretary" for "Secretary of Housing and Urban Development".

Subsec. (h). [Pub.L. 104-208, § 576](#), added subsec. (h) relating to verification of eligibility.

[Pub.L. 104-193, § 441\(a\)\(5\)](#), added subsec. (h) defining the term "applicable Secretary".

1988 Amendments. Subsec. (a). [Pub.L. 100-242, § 164\(a\)](#), added par. (6).

Subsec. (c). [Pub.L. 100-242, § 164\(b\)](#), added subsec. (c).

Subsec. (d). [Pub.L. 100-242, § 164\(c\)\(8\)](#), amended last sentence generally. Prior to amendment, last sentence read as follows: "In this subsection and subsection (e) of this section, the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available."

Subsec. (d)(2). [Pub.L. 100-242, § 164\(c\)\(1\)](#), inserted ", is not 62 years of age or older, and is receiving financial assistance on February 5, 1988" after "States".

Subsec. (d)(4). [Pub.L. 100-242, § 164\(c\)\(2\)](#), in introductory provisions, inserted ", is not 62 years of age or older, and is receiving financial assistance on February 5, 1988" after "States", and "or recertification" after "application".

Subsec. (d)(4)(A)(i). [Pub.L. 100-242, § 164\(c\)\(3\)](#), inserted after comma "or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3).".

Subsec. (d)(4)(B). [Pub.L. 100-242, § 164\(c\)\(4\)](#), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "if there are submitted documents which the Secretary determines constitutes

reasonable evidence indicating such status--".

Subsec. (d)(4)(B)(i), (ii). [Pub.L. 100-242, § 164\(c\)\(5\), \(6\)](#), inserted "or additional information" after "documents" in cl. (i), and "or appeal" after "verification" in cl. (ii).

Subsec. (d)(6). [Pub.L. 100-242, § 164\(c\)\(7\)](#), added par. (6).

Subsec. (e). [Pub.L. 100-242, § 164\(d\)\(1\)](#), in introductory provisions, inserted "of Housing and Urban Development" after "Secretary".

Subsec. (e)(2), (3). [Pub.L. 100-242, § 164\(d\)\(2\), \(3\)](#), inserted "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 ([Public Law 99-603](#)))".

Subsec. (e)(4). [Pub.L. 100-242, § 164\(d\)\(4\)](#), inserted "(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 ([Public Law 99-603](#)))".

Subsec. (f). [Pub.L. 100-242, § 164\(e\)](#), added subsec. (f).

Subsec. (g). [Pub.L. 100-242, § 164\(f\)\(1\)](#), added subsec. (g).

1986 Amendments. Subsecs. (d), (e). [Pub.L. 99-603](#) added subsecs. (d) and (e).

1981 Amendments. Subsec. (a). [Pub.L. 97-35](#) substituted provisions relating to restrictions on use of assisted housing by resident aliens meeting further conditions, for provisions relating to prohibition on financial assistance to nonimmigrant student-alien.

Subsec. (b). [Pub.L. 97-35](#) struck out "(1)" following "(b)" and par. (2), which defined the term "nonimmigrant student-alien".

Effective and Applicability Provisions

[Pub.L. 105-276, Title V, § 592\(b\)](#), Oct. 21, 1998, 112 Stat. 2654, provided that: "The amendments made by this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

Amendments under Title V of [Pub.L. 105-276](#) made on Oct. 21, 1998, but Title V to take effect, and the amendments made by Title V to apply beginning upon, Oct. 1, 1999, except as otherwise specifically provided in Title V or as otherwise specifically provided in any amendment made by Title V, and continuing applicability of provisions of law amended by Title V, see [section 503 of Pub.L. 105-276](#), set out as a note under [section 1437](#) of this title.

1996 Acts. Amendment by section 308 of Div. C of [Pub.L. 104-208](#) effective, with certain exceptions and subject to certain transitional rules, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Div. C of [Pub.L. 104-208](#), set out as a note under section 1101 of Title 8, Aliens and Nationality.

Title V of Div. C of [Pub.L. 104-208](#) effective on Sept. 30, 1996, see [section 591 of Pub.L. 104-208](#), set out as a note under section 1101 of this title.

1988 Acts. Section 164(h) of [Pub.L. 100-242](#) provided that:

"(1) The provisions of, and amendments made by, subsections (a) [amending subsec. (a)], (b) [amending subsec. (c)], (e) [adding subsec. (f)], (f) [adding subsec. (g) of this section and repealing section 1437r of this title], and (g) [enacting provisions set out as a note under this section] shall take effect on the date of the enactment of this Act [Feb. 5, 1988].

"(2) The amendments made by subsections (c) [amending subsec. (d)] and (d) [amending subsec. (e)] shall take effect on October 1, 1988."

1986 Acts. Amendment by section 121(a) of [Pub.L. 99-603](#) to take effect on Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of [Pub.L. 99-603](#), set out as a note under section 1320b-7 of this title.

1981 Acts. Amendment by [Pub.L. 97-35](#) effective Oct. 1, 1981, see [section 371 of Pub.L. 97-35](#), set out as a note under section 3701 of Title 12, Banks and Banking.

Severability of Provisions

If any provision of Division C of [Pub.L. 104-208](#) or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of Division C of [Pub.L. 104-208](#) and the application of the provisions of Division C of [Pub.L. 104-208](#) to any person or circumstance not to be affected thereby, see section 1(e) of [Pub.L. 104-208](#), set out as a note under section 1101 of Title 8, Aliens and Nationality.

Short Title

1996 Amendments. Section 571 of Title V of Div. C of [Pub.L. 104-208](#) provided that: "This subtitle [amending this section] may be cited as the 'Use of Assisted Housing by Aliens Act of 1996'."

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 [8 U.S.C.A. § 1551](#).

Aliens Granted Conditional Entry Eligible for Assisted Housing

Section 329(b) of [Pub.L. 97-35](#) provided that: "An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act ([8 U.S.C. 1153\(a\)\(7\)](#)) [[section 1153\(a\)\(7\) of Title 8](#), Immigration and Nationality] before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 214 of the Housing and Community Development Act of 1980 [this section], to be an alien described in section 214(a)(3) of such Act [subsec. (a)(3) of this section]."

Delayed Implementation of 1981 Amendments

[Pub. L. 98-181, Title IV, § 474\(e\)](#), Nov. 30, 1983, 97 Stat. 1239, provided in part that: "The Secretary may not implement the amendment to section 214 of the Housing and Community Development Act of 1980 [this section], made by section 329(a) of the Housing and Community Development Amendments of 1981 [[Pub. L. 97-35](#)], before the expiration of the one-year period following the date of the enactment of this Act [Nov. 30, 1983]."

Issuance of Regulations

Section 577 of Title V of Div. C of [Pub.L. 104-208](#) provided that:

"(a) Issuance.--Not later than the 60 days after the date of enactment of this Act [Sept. 30, 1996], the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part [probably means this subtitle, subtitle E, §§ 571 to 577 of Div. C of [Pub.L. 104-208](#), which amended this section and enacted a provision set out as a note under this section]. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code [5 U.S.C.A. § 533], regarding notice or opportunity for comment.

"(b) Failure to issue.--If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN-2501-AA63 (Docket No. R-95-1409; FR-2383-F-050), published in the Federal Register on March 20, 1995 (Vol. 60, No. 53; pp. 14824 to 14861), shall not apply after that date."

Transitional Certification and Documentation Provisions for Fiscal Year 1988

Section 164(g) of [Pub.L. 100-242](#) provided that: "In carrying out section 214 of the Housing and Community Development Act of 1980 [this section] during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual--

"(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

"(2) if not a citizen or national--

"(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age 'and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987 [Feb. 5, 1988]'; or

"(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation."

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