Native American Housing Assistance and Self-Determination Act of 1996, as amended

[Current through December 31, 2000. See note at end.]

Sec. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE--This Act may be cited as the "Native American Housing Assistance and Self-Determination Act of 1996".

(b) TABLE OF CONTENTS--The table of contents for this Act is as follows:

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Sec. 2. CONGRESSIONAL FINDINGS. [25 U.S.C. 4101]
The Congress finds that--

(1) the Federal Government has a responsibility to promote the general welfare of the Nation—

(A) by using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people;

(3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people;

(4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition;

(5) providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status;

(6) the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government should work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and

(7) Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93-638 (25 U.S.C. 450 et seq.).

Sec. 3. ADMINISTRATION THROUGH OFFICE OF NATIVE AMERICAN PROGRAMS. [25 U.S.C. 4102]

The Secretary of Housing and Urban Development shall carry out this Act through the Office of Native American Programs of the Department of Housing and Urban Development.

Sec. 4. DEFINITIONS. [25 U.S.C. 4103]

For purposes of this Act, the following definitions shall apply:

(1) ADJUSTED INCOME--The term "adjusted income means the annual income that remains after excluding the following amounts:

(A) YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES--$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)--

(i) who is under 18 years of age; or

(ii) who is--

(I) 18 years of age or older; and

(II) a person with disabilities or a full-time student.

(B) ELDERLY AND DISABLED FAMILIES--$400 for an elderly or disabled family.

(C) MEDICAL AND ATTENDANT EXPENSES--The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of--

(i) medical expenses, in the case of an elderly or disabled family; and

(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

(D) CHILD CARE EXPENSES--Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.

(E) EARNED INCOME OF MINORS--The amount of any earned income of any member of the family who is less than 18 years of age.

(F) TRAVEL EXPENSES--Excessive travel expenses, not to exceed $25 per family per week, for employment - or education-related travel.

(G) OTHER AMOUNTS--Such other amounts as may be provided in the Indian housing plan for an Indian tribe.

(2) AFFORDABLE HOUSING--The term "affordable housing" means housing that complies with the requirements for affordable housing under title II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

(3) DRUG-RELATED CRIMINAL ACTIVITY--The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(4) ELDERLY FAMILIES AND NEAR-ELDERLY FAMILIES--The terms "elderly family" and "near-elderly family" mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include 2 or more elderly persons or near-elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the Indian housing plan for the agency to be essential to their care or well-being.

(5) ELDERLY PERSON--The term "elderly person" means a person who is at least 62 years of age.

(6) FAMILY--The term "family" includes a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person.

(7) GRANT BENEFICIARY--The term "grant beneficiary" means the Indian tribe or tribes on behalf of which a grant is made under this Act to a recipient.

(8) INCOME--The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that the following amounts may not be considered as income under this paragraph:

(A) Any amounts not actually received by the family.

(B) Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act.

(9) INDIAN--The term "Indian" means any person who is a member of an Indian tribe.

(10) INDIAN AREA--The term "Indian area" means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing.

(11) INDIAN HOUSING PLAN--The term "Indian housing plan" means a plan under section 102.

(12) INDIAN TRIBE--

(A) IN GENERAL--The term "Indian tribe" means a tribe that is a federally recognized tribe or a State recognized tribe.

(B) FEDERALLY RECOGNIZED TRIBE--The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

(C) STATE RECOGNIZED TRIBE--

(i) IN GENERAL--The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community--

(I) that has been recognized as an Indian tribe by any State; and

(II) for which an Indian Housing Authority has, before the effective date under section 705, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5-year period ending upon such effective date.

(ii) CONDITIONS--Notwithstanding clause (i)--

(I) the allocation formula under section 302 shall be determined for a State recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of this Act; and

(II) nothing in this paragraph shall be construed to confer upon a State recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes.

(13) LOW-INCOME FAMILY--The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(14) MEDIAN INCOME--The term "median income" means, with respect to an area that is an Indian area, the greater of--

(A) the median income for the Indian area, which the Secretary shall determine; or

(B) the median income for the United States.

(15) NEAR-ELDERLY PERSON--The term "near-elderly person" means a person who is at least 55 years of age and less than 62 years of age.

(16) NONPROFIT--The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(17) PERSON WITH DISABILITIES--The term "person with disabilities" means a person who--

(A) has a disability as defined in section 223 of the Social Security Act;

(B) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which--

(i) is expected to be of long-continued and indefinite duration;

(ii) is of such a nature that such ability could be improved by more suitable housing conditions; or

(C) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act. Such term shall not exclude persons who have the disease of acquired

immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this Act, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(18) RECIPIENT--The term "recipient" means an Indian tribe or the entity for one or more Indian tribes that is authorized to receive grant amounts under this Act on behalf of the tribe or tribes.

(19) SECRETARY--Except as otherwise specifically provided in this Act, the term "Secretary" means the Secretary of Housing and Urban Development.

(20) STATE--The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.

(21) TRIBALLY DESIGNATED HOUSING ENTITY--The terms "tribally designated housing entity" and "housing entity" have the following meaning:

(A) EXISTING IHA'S--With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority--

(i) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937,

(ii) is acting upon such date of enactment as the Indian housing authority for the tribe, and

(iii) is not an Indian tribe for purposes of this Act, the terms mean such Indian housing authority.

(B) OTHER ENTITIES--With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established--

(i) by exercise of the power of self-government of one or more Indian tribes independent of State law, or

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity.

(C) ESTABLISHMENT--A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

TITLE I--BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. BLOCK GRANTS. [25 U.S.C. 4111]

(a) AUTHORITY--For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe.

(b) PLAN REQUIREMENT--

(1) IN GENERAL--The Secretary may make a grant under this Act on behalf of an Indian tribe for a fiscal year only if--

(A) the Indian tribe has submitted to the Secretary an Indian housing plan for such fiscal year under section 102; and

(B) the plan has been determined under section 103 to comply with the requirements of section 102.

(2) WAIVER--The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, 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.

(c) LOCAL COOPERATION AGREEMENT--Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for rental or lease-purchase homeownership units that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act. 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).

(d) EXEMPTION FROM TAXATION--Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for affordable housing activities under this Act for rental or lease-purchase dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or with amounts provided under this Act that are owned by the recipient for the tribe unless--

(1) such dwelling units (which, in the case of units in a multi-unit project, shall be exclusive of any portions of the project not developed under the United States Housing Act of 1937 or with amounts provided under this Act) are exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and

(2) the recipient for the tribe makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of $150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as--

(A) is prescribed by State, tribal, or local law;

(B) is agreed to by the local governing body in the agreement under subsection (c); or

(C) the recipient and the local governing body agree that such user fees or payments in lieu of taxes shall not be made.

(e) EFFECT OF FAILURE TO EXEMPT FROM TAXATION--Notwithstanding subsection (d), a grant recipient that does not comply with the requirements under such subsection may receive a block grant under this Act, but only if the tribe, State, city, county, or other political subdivision in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the amounts prescribed in subsection (d)(2).

(f) AMOUNT--Except as otherwise provided under this Act, the amount of a grant under this section to a recipient for a fiscal year shall be--

(1) in the case of a recipient whose grant beneficiary is a single Indian tribe, the amount of the allocation under section 301 for the Indian tribe; and

(2) in the case of a recipient whose grant beneficiary is more than 1 Indian tribe, the sum of the amounts of the allocations under section 301 for each such Indian tribe.

(g) USE FOR AFFORDABLE HOUSING ACTIVITIES UNDER PLAN--Except as provided in subsection (h), amounts provided under a grant under this section may be used only for affordable housing activities under title II that are consistent with an Indian housing plan approved under section 103.

(h) ADMINISTRATIVE EXPENSES--The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for any reasonable administrative and planning expenses of the recipient relating to carrying out this Act and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing an Indian housing plan under section 102.

(i) PUBLIC-PRIVATE PARTNERSHIPS--Each recipient shall make all reasonable efforts, consistent with the purposes of this Act, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing the approved Indian housing plan.

Sec. 102. INDIAN HOUSING PLANS. [25 U.S.C. 4112]

(a) PLAN SUBMISSION--The Secretary shall provide--

(1)(A) for an Indian tribe to submit to the Secretary, for each fiscal year, a housing plan under this section for the tribe; or

(B) for the tribally designated housing entity for the tribe to submit the plan as provided in subsection (d) for the tribe; and

(2) for the review of such plans.

(b) 5-YEAR PLAN--Each housing plan under this section shall be in a form prescribed by the Secretary and shall contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the

following information:

(1) MISSION STATEMENT--A general statement of the mission of the Indian tribe to serve the needs of the low-income families in the jurisdiction of the Indian tribe during the period.

(2) GOALS AND OBJECTIVES--A statement of the goals and objectives of the Indian tribe to enable the tribe to serve the needs identified in paragraph (1) during the period.

(3) ACTIVITIES PLAN--An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the tribe to meet its mission, goals, and objectives.

(c) 1-YEAR PLAN--A housing plan under this section for an Indian tribe shall be in a form prescribed by the Secretary and contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) GOALS AND OBJECTIVES--A statement of the goals and objectives to be accomplished during that period.

(2) STATEMENT OF NEEDS--A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe and the means by which such needs will be addressed during the period, including--

(A) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

(B) a description of the estimated housing needs for all Indian families in the jurisdiction.

(3) FINANCIAL RESOURCES--An operating budget for the recipient, in a form prescribed by the Secretary, that includes--

(A) an identification and a description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and

(B) the uses to which such resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses.

(4) AFFORDABLE HOUSING RESOURCES--A statement of the affordable housing resources currently available and to be made available during the period, including--

(A) a description of the significant characteristics of the housing market in the jurisdiction, including the availability of housing from other public sources, private market housing, and the manner in which such characteristics influence the decision of the recipient to use grant amounts to be provided under this Act for rental assistance, production of new units, acquisition of existing units, or rehabilitation of units;

(B) a description of the structure, coordination, and means of cooperation between the recipient and any other governmental entities in the development, submission, or implementation of housing plans, including a description of the involvement of private, public, and nonprofit organizations and institutions, and the use of loan guarantees under section 184 of the Housing and Community Development Act of 1992, and other housing assistance provided by the Federal Government for Indian tribes, including loans, grants, and mortgage insurance;

(C) a description of the manner in which the plan will address the needs identified pursuant to paragraph (2);

(D) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937;

(E) a description of any existing and anticipated homeownership programs and rental programs to be carried out during the period, and the requirements and assistance available under such programs;

(F) a description of any existing and anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period, and the requirements and assistance available under such programs;

(G) a description of all other existing or anticipated housing assistance provided by the recipient during the period, including transitional housing, homeless housing, college housing, supportive services housing, and the requirements and assistance available under such programs;

(H) a description of any housing to be demolished or disposed of, a timetable for such demolition or disposition, and any other information required by the Secretary with respect to such demolition or disposition;

(I) a description of the manner in which the recipient will coordinate with tribal and State welfare agencies to ensure that residents of such housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

(J) a description of the requirements established by the recipient to promote the safety of residents of such housing, facilitate the undertaking of crime prevention measures, allow resident input and involvement, including the establishment of resident organizations, and allow for the coordination of crime prevention activities between the recipient and tribal and local law enforcement officials; and

(K) a description of the entity that will carry out the activities under the plan, including the organizational capacity and key personnel of the entity.

(5) CERTIFICATION OF COMPLIANCE--Evidence of compliance which shall include, as appropriate--

(A) a certification that the recipient will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable Federal statutes;

(B) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as may be established by the Secretary;

(C) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act;

(D) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer and

(E) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act.

(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.

(d) PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY--A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe--

(1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or

(2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe.

(e) COORDINATION OF PLANS--A plan under this section may cover more than 1 Indian tribe, but only if the certification requirements under subsection (d) are complied with by each such grant beneficiary covered.

(f) REGULATIONS--The requirements relating to the contents of plans under this section shall be established by regulation, pursuant to section 106.

Sec. 103. REVIEW OF PLANS. [25 U.S.C. 4113]

(a) REVIEW AND NOTICE--

(1) REVIEW--The Secretary shall conduct a limited review of each Indian housing plan submitted to the Secretary to ensure that the plan complies with the requirements of section 102. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

(2) NOTICE--The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 102 and the tribe shall be considered to have been

notified of compliance upon the expiration of such 60-day period.

(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE--If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 102, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102.

(c) REVIEW--After submission of the Indian housing plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan--

(1) set forth the information required by section 102 to be contained in an Indian housing plan;

(2) are consistent with information and data available to the Secretary; and

(3) are not prohibited by or inconsistent with any provision of this Act or other applicable law. If the Secretary determines that any of the appropriate certifications required under section 102(c)(5) are not included in the plan, the plan shall be deemed to be incomplete.

(d) UPDATES TO PLAN--After a plan under section 102 has been submitted for an Indian tribe for any fiscal year, the tribe may comply with the provisions of such section for any succeeding fiscal year (with respect to information included for the 5-year period under section 102(b) or the 1-year period under section 102(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted. Not less than once every 5 years, the tribe shall submit a complete plan.

(e) EFFECTIVE DATE--This section and section 102 shall take effect on the date provided by the Secretary pursuant to section 106(a) to provide for timely submission and review of Indian housing plans as necessary for the provision of assistance under this Act in fiscal year 1998.

Sec. 104. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS. [25 U.S.C. 4114]

(a) PROGRAM INCOME--

(1) AUTHORITY TO RETAIN--A recipient may retain any program income that is realized from any grant amounts under this Act if--

(A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and

(B) the recipient has agreed that it will utilize the program income for affordable housing activities in accordance with the provisions of this Act.

(2) PROHIBITION OF REDUCTION OF GRANT--The Secretary may not reduce the grant amount for any Indian tribe based solely on--

(A) whether the recipient for the tribe retains program income under paragraph (1);

(B) the amount of any such program income retained; or

(C) whether the recipient retains reserve amounts described in section 210.

(3) EXCLUSION OF AMOUNTS--The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient.

(b) LABOR STANDARDS--

(1) IN GENERAL--Any contract or agreement for assistance, sale, or lease pursuant to this Act 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, tribal, 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 affordable 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 the Act of March 3, 1931 (commonly known as the Davis-Bacon Act; chapter 411; 46 Stat. 1494; 40 U.S.C. 276a et seq.), shall be paid to all laborers and mechanics employed in the development of the affordable housing involved, and the Secretary shall require certification as to compliance with the provisions of this paragraph before making any payment under such contract or agreement.

(2) EXCEPTIONS--Paragraph (1) and the provisions relating to wages (pursuant to paragraph (1)) in any contract or agreement for assistance, sale, or lease pursuant to this Act, shall not apply to any individual who

receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

(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.

Sec. 105. ENVIRONMENTAL REVIEW. [25 U.S.C. 4115]

(a) IN GENERAL--

(1) RELEASE OF FUNDS--In order to ensure that the policies of the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this Act, and to ensure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may by regulation provide for the release of amounts for particular projects to tribes which assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake such projects as Federal projects.

(2) REGULATIONS--

(A) IN GENERAL--The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(B) CONTENTS--The regulations issued under this paragraph shall--

(i) provide for the monitoring of the environmental reviews performed under this section;

(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

(3) EFFECT ON ASSUMED RESPONSIBILITY--The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by a recipient of grant amounts with respect to any particular release of funds.

(b) PROCEDURE--The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the tribe has submitted to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c). The approval of the Secretary of any such certification shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto that are covered by such certification.

(c) CERTIFICATION--A certification under the procedures authorized by this section shall--

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the tribe under this Act qualified under regulations of the Secretary;

(3) specify that the tribe has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer--

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the tribe and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the certifying officer as such an official.

(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.

Sec. 106. REGULATIONS. [25 U.S.C. 4116]

(a) TRANSITION REQUIREMENTS--

(1) IN GENERAL--Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide for the transition (upon the effectiveness of this Act and the amendments made by this Act) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and other related provisions of law to the provision of assistance in accordance with this Act and the amendments made by this Act.

(2) PUBLIC COMMENTS; GENERAL NOTICE OF PROPOSED RULEMAKING--The notice issued under paragraph (1) shall--

(A) invite public comments regarding such transition requirements and final regulations to carry out this Act; and

(B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b).

(b) FINAL REGULATIONS--

(1) TIMING--The Secretary shall issue final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this Act.

(2) NEGOTIATED RULEMAKING PROCEDURE--

(A) IN GENERAL--Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(B) COMMITTEE--

(i) IN GENERAL--The Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A).

(ii) ADAPTATION--In establishing the negotiated rulemaking committee, the Secretary shall--

(I) adapt the procedures under the subchapter described in clause (i) to the unique government-to-government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes; and

(II) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities.

(c) EFFECTIVE DATE--This section shall take effect on the date of the enactment of this Act.

Sec. 107. EFFECTIVE DATE. [25 U.S.C. 4101 note]

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act shall take effect on October 1, 1997.

Sec. 108. AUTHORIZATION OF APPROPRIATIONS. [25 U.S.C. 4117]

There are authorized to be appropriated for grants under this title such sums as may be necessary for each of fiscal years 1998, 1999, 2000, and 2001. This section shall take effect on the date of the enactment of this Act.

TITLE II -- AFFORDABLE HOUSING ACTIVITIES

Sec. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES. [25 U.S.C. 4131]

(a) PRIMARY OBJECTIVE--The national objectives of this Act are--

(1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;

(2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;

(3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;

(4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

(5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

(b) ELIGIBLE FAMILIES--

(1) IN GENERAL--Except as provided under paragraph (2), assistance under eligible housing activities under this Act shall be limited to low-income Indian families on Indian reservations and other Indian areas.

(2) EXCEPTION TO LOW-INCOME REQUIREMENT--A recipient may provide assistance for homeownership activities under section 202(2), model activities under section 202(6), or loan guarantee activities under title VI to Indian families who are not low-income families, to the extent that the Secretary approves the activities pursuant to such section or title because there is a need for housing for such families that cannot reasonably be met without such assistance. The Secretary shall establish limits on the amount of assistance that may be provided under this Act for activities for families who are not low-income families.

(3) NON-INDIAN FAMILIES--Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act for a non-Indian family on an Indian reservation or other Indian area if the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

(4) LAW ENFORCEMENT OFFICERS— Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act to a law enforcement officer on the reservation or other Indian area, who is employed full-time by a Federal, state, county or tribal government, and in implementing such full-time employment is sworn to uphold, and make arrests for violations of Federal, state, county or tribal law, if the recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.

(5) PREFERENCE FOR TRIBAL MEMBERS AND OTHER INDIAN FAMILIES--The Indian housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this Act on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in which the applicable Indian housing plan for an Indian tribe provides for preference under this paragraph, the recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this Act for such tribe are subject to such preference.

(6) EXEMPTION--Title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 shall not apply to actions by federally recognized tribes and the tribally designated housing entities of those tribes under this Act.

Sec. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES. [25 U.S.C. 4132]

Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

(1) INDIAN HOUSING ASSISTANCE--The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) DEVELOPMENT--The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement,

development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities.

(3) HOUSING SERVICES--The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

(4) HOUSING MANAGEMENT SERVICES--The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and management of affordable housing projects.

(5) CRIME PREVENTION AND SAFETY ACTIVITIES--The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(6) MODEL ACTIVITIES--Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

Sec. 203. PROGRAM REQUIREMENTS. [25 U.S.C. 4133]

(a) RENTS--

(1) ESTABLISHMENT--Subject to paragraph (2), each recipient shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this Act, including the methods by which such rents and homebuyer payments are determined.

(2) MAXIMUM RENT--In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this Act, the monthly rent or homebuyer payment (as applicable) for such dwelling unit may not exceed 30 percent of the monthly adjusted income of such family.

(b) MAINTENANCE AND EFFICIENT OPERATION--Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing. This subsection may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in this subsection, pursuant to regulations established by the Secretary.

(c) INSURANCE COVERAGE--Each recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.

(d) ELIGIBILITY FOR ADMISSION--Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act.

(e) MANAGEMENT AND MAINTENANCE--Each recipient shall develop policies governing the management and maintenance of housing assisted with grant amounts under this Act.

Sec. 204. TYPES OF INVESTMENTS. [25 U.S.C. 4134]

(a) IN GENERAL--Subject to section 203 and the Indian housing plan for an Indian tribe, the recipient for that tribe shall have--

(1) the discretion to use grant amounts for affordable housing activities through equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and

(2) the right to establish the terms of assistance.

(b) INVESTMENTS--A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary.

Sec. 205. LOW-INCOME REQUIREMENT AND INCOME TARGETING. [25 U.S.C. 4135]

(a) IN GENERAL--Housing shall qualify as affordable housing for purposes of this Act only if--

(1) each dwelling unit in the housing--

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit;

(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and

(2) except for housing assisted under section 202 of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action--

(A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure; and

(B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

(b) EXCEPTION--Notwithstanding subsection (a), housing assisted pursuant to section 201(b)(2) shall be considered affordable housing for purposes of this Act.

Sec. 206. [Repealed.] [25 U.S.C. 4136]

Sec. 207. LEASE REQUIREMENTS AND TENANT SELECTION. [25 U.S.C. 4137]

(a) LEASES--Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that--

(1) do not contain unreasonable terms and conditions;

(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and

(6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that--

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

(b) TENANT AND HOMEBUYER SELECTION--The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant and homebuyer selection policies and criteria that--

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(3) provide for--

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and

(B) the prompt notification in writing to any rejected applicant of that rejection and the grounds for that rejection.

Sec. 208. AVAILABILITY OF RECORDS. [25 U.S.C. 4138]

(a) PROVISION OF INFORMATION--Notwithstanding any other provision of law, except as provided in subsection (b), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction records of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this Act for purposes of applicant screening, lease enforcement, and eviction.

(b EXCEPTION--A law enforcement agency described in subsection (a) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(c) CONFIDENTIALITY--An Indian tribe or tribally designated housing entity receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe or entity or the owner of housing assisted under this Act, and who has a job-related need to have access to the information for the purposes under this section. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any tribe or entity is used, and confidentiality is maintained, as required under this section.

SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT. [25 U.S.C. 4139]

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).

Sec. 210. CONTINUED USE OF AMOUNTS FOR AFFORDABLE HOUSING. [25 U.S.C. 4140]

Any funds for programs for low-income housing under the United States Housing Act of 1937 that, on the date of the applicability of this Act to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this Act and subject to the provisions of this Act relating to use of such assistance.

TITLE III -- ALLOCATION OF GRANT AMOUNTS

Sec. 301. ANNUAL ALLOCATION. [25 U.S.C. 4151]

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this Act for the fiscal year, in accordance with the formula established pursuant to section 302, among Indian tribes that comply with the requirements under this Act for a grant under this Act.

Sec. 302. ALLOCATION FORMULA. [25 U.S.C. 4152]

(a) ESTABLISHMENT--The Secretary shall, by regulations issued not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section.

(b) FACTORS FOR DETERMINATION OF NEED--The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors:

(1) The number of low-income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary.

(2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe.

(3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify.

(c) OTHER FACTORS FOR CONSIDERATION--In establishing the formula, the Secretary shall consider--

(1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and

(2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes.

(d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION--

(1) FULL FUNDING--

(A) IN GENERAL--Except with respect to an Indian tribe described in subparagraph (B), the formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe.

(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.

(2) PARTIAL FUNDING--The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing.

(e) EFFECTIVE DATE--This section shall take effect on the date of the enactment of this Act.

TITLE IV -- COMPLIANCE, AUDITS, AND REPORTS

Sec. 401. REMEDIES FOR NONCOMPLIANCE. [25 U.S.C. 4161]

(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS--

(1) IN GENERAL--Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall—

(A) terminate payments under this Act to the recipient;

(B) reduce payments under this Act to the recipient by an amount equal to the amount of such payments that were not expended in accordance with this Act;

(C) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply; or

(D) in the case of noncompliance described in section 402(b), provide a replacement tribally designated

housing entity for the recipient, under section 402.

(2) CONTINUANCE OF ACTIONS--If the Secretary takes an action under subparagraph (A), B), or (C) of paragraph (1) the Secretary shall continue such action until the Secretary determines that the failure to comply has ceased.

(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.

(b) NONCOMPLIANCE BECAUSE OF TECHNICAL INCAPACITY--

(1) IN GENERAL— If the Secretary makes a finding under subsection (a), but determines that the failure to comply substantially with the provisions of this Act—

(A) is not a pattern or practice of activities constituting willful noncompliance, and

(B) is a result of the limited capability or capacity of the recipient,

the Secretary may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability and capacity of the recipient to administer assistance provided under this Act in compliance with the requirements under this Act, 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.

(2) PERFORMANCE AGREEMENT--The period of a performance 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).

(c) REFERRAL FOR CIVIL ACTION--

(1) AUTHORITY - In lieu of, or in addition to, any action authorized by subsection (a), if the Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this Act, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) CIVIL ACTION - Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Act that was not expended in accordance with it, or for mandatory or injunctive relief.

(d) REVIEW--

(1) IN GENERAL--Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act--

(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) PROCEDURE--The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) DISPOSITION--

(A) COURT PROCEEDINGS--The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record.

(B) SECRETARY--The Secretary--

(i) may modify the findings of fact of the Secretary, or make new findings, by reason of the new evidence so taken and filed with the court; and

(ii) shall file--

(I) such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole; and

(II) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

(4) FINALITY--Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code.

Sec. 402. REPLACEMENT OF RECIPIENT. [25 U.S.C. 4162]

(a) AUTHORITY--As a condition of the Secretary making a grant under this Act on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c).

(b) CONDITIONS OF REMOVAL--The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this Act.

(c) CHOICE AND TERM OF REPLACEMENT--If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes)--

(1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of the 60-day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and

(2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon--

(A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or

(B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the tribe upon making the determination under subsection (b).

Sec. 403. MONITORING OF COMPLIANCE. [25 U.S.C. 4163]

(a) ENFORCEABLE AGREEMENTS--Each recipient, through binding contractual agreements with owners

and otherwise, shall ensure long-term compliance with the provisions of this Act. Such measures shall provide for (1) enforcement of the provisions of this Act by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING--Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public.

(c) PERFORMANCE MEASURES--The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this Act.

Sec. 404. PERFORMANCE REPORTS. [25 U.S.C. 4164]

(a) REQUIREMENT--For each fiscal year, each recipient shall--

(1) review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

(b) CONTENT--Each report under this section for a fiscal year shall--

(1) describe the use of grant amounts provided to the recipient for such fiscal year;

(2) assess the relationship of such use to the goals identified in the Indian housing plan of the grant beneficiary;

(3) indicate the programmatic accomplishments of the recipient; and

(4) describe the manner in which the recipient would change its programs as a result of its experiences.

(c) SUBMISSION--The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this Act.

(d) PUBLIC AVAILABILITY--A recipient preparing a report under this section shall make the report publicly available to the citizens in the jurisdiction of the recipient in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

Sec. 405. REVIEW AND AUDIT BY SECRETARY. [25 U.S.C. 4165]

(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 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 on-site 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.

Sec. 406. GAO AUDITS. [25 U.S.C. 4166]

To the extent that the financial transactions of Indian tribes and recipients of grant amounts under this Act relate to amounts provided under this Act, such transactions may be audited by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such tribes and recipients pertaining to such financial transactions and necessary to facilitate the audit.

Sec. 407. REPORTS TO CONGRESS. [25 U.S.C. 4167]

(a) IN GENERAL--Not later than 90 days after the conclusion of each fiscal year in which assistance under this Act is made available, the Secretary shall submit to the Congress a report that contains--

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of funds available under this Act during the preceding fiscal year; and

(3) a description of the aggregate outstanding loan guarantees under title VI.

(b) RELATED REPORTS--The Secretary may require recipients of grant amounts under this Act to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

Sec. 408. PUBLIC AVAILABLITY OF INFORMATION. [25 U.S.C. 4168]

Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.

TITLE V -- TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

Sec. 501. REPEAL OF PROVISIONS RELATING TO INDIAN HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

(a) REPEAL OF TITLE II--Title II of the United States Housing Act of 1937 (42 U.S.C 1437aa et seq.) is hereby repealed.

(b) AMENDMENTS TO TITLE I--Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended--

(1) in section 3(b)--

(A) in paragraph (5)--

(i) in subparagraph (F) by inserting "and" after the semicolon at the end;

(ii) by striking subparagraph (G); and

(iii) by redesignating subparagraph (H) as subparagraph (G);

(B) in paragraph (6), by striking the last sentence;

(C) in paragraph (7)--

(i) by inserting "and" before "the Trust"; and

(ii) by striking ", and Indian tribes"; and
(D) by striking paragraphs (9), (10), (11), and (12);
(2) in section 5--
(A) in subsection (j)(1), by striking "(other than for Indian families)"; and
(B) by striking subsection (l)
(3) in section 6(b)(1), by striking "and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988;
(4) in subsection 7, by striking subsection (l);
(5) in section 9(a)(1)(A), in the second sentence--
(A) by inserting "and" after the comma at the end of clause (i); and
(B) by striking", and (iii)" and all that follows through "project is occupied";
(6) in section 14--
(A) in the section heading, by striking "AND INDIAN";
(B) in subsection (e)(1)(E)--
(i) in the matter preceding clause (i), by striking "(or Indian tribal official, if appropriate)";
(ii) in clause (i)--
(I) by striking "(or Indian tribal officials)"; and
(II) by striking "(or tenants of the Indian housing projects)"; and
(iii) in clause (ii), by striking "(or Indian tribe)";
(7) in section 16--
(A) in subsection (d)--
(i) by striking the paragraph designation for paragraph (1); and
(ii) by striking paragraph (2); and (B) in subsection (e), by striking paragraph (3);
(8) in section 23(o), by striking paragraph (2);
(9) in section 24(h)(3), by striking ", except that it does not include any Indian housing authority";
(10) in section 25(m)(4), by striking ", except that it does not include Indian housing authorities"; and
(11) in section 26, in subsections (a)(1) and (b), by striking "(including an Indian housing authority)" each place it appears.

(c) AMENDMENTS TO TITLE III--Title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) is amended--
(1) by striking the heading for the title and inserting the following: "TITLE III--HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP";
(2) in section 306--
(A) in paragraph (1)(A), by striking '"including an Indian housing authority)"; and
(B) in paragraph (2)(A), by striking "or Indian"; and
(3) in section 307, by striking "and title II".

(d) OTHER RELATED PROVISIONS--
(1) INDIAN HOUSING CHILD DEVELOPMENT--Section 519 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is hereby repealed.
(2) PUBLIC HOUSING YOUTH SPORTS--Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a) is amended--
(A) in subsection (b)--
(i) in paragraph (5), by inserting "and" after the semicolon at the end;
(ii) by striking paragraphs (6) and (7); and
(iii) by redesignating paragraph (8) as paragraph (6);
(B) in subsection (e)(2), by striking "Indian tribes,";
(C) in subsection (i)--
(i) by striking paragraph (1); and
(ii) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively; and
(D) in subsection (l)(5)(B), by striking "units of general local government, and Indian housing authorities" and inserting "and Indian housing authorities".
(3) ALLOCATION OF FUNDS--Section 213(d)(1)(B)(ii) of the Housing and Community Development

Act of 1974 (42 U.S.C. 1439) is amended by striking "and Indian".

Sec. 502. TERMINATION OF INDIAN HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

(a) TERMINATION OF ASSISTANCE--After September 30, 1997, financial assistance may not be provided under the United States Housing Act of 1937 or pursuant to any commitment entered into under such Act, for Indian housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless such assistance is provided from amounts made available for fiscal year 1997 and pursuant to a commitment entered into before September 30, 1997. Any housing that is the subject of a contract for tenant-based 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).

(b) TERMINATION OF RESTRICTIONS ON USE OF INDIAN HOUSING--After September 30, 1997, any housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall not be subject to any provision of such Act or any annual contributions contract or other agreement pursuant to such Act, but shall be considered and maintained as affordable housing for purposes of this Act.

Sec. 503. TERMINATION OF NEW COMMITMENTS FOR RENTAL ASSISTANCE.

After September 30, 1997, financial assistance for rental housing assistance under the United States Housing Act of 1937 may not be provided to any Indian housing authority or tribally designated housing entity, unless such assistance is provided pursuant to a contract for such assistance entered into by the Secretary and the Indian housing authority before such date. Any such assistance provided pursuant to such a contract shall be governed by the provisions of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act) and the provisions of such contract.

Sec. 504. TERMINATION OF YOUTHBUILD PROGRAM ASSISTANCE.

(a) IN GENERAL--Subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) is amended--

(1) by redesignating section 460 as section 461; and

(2) by inserting after section 459 the following new section:

"SEC. 460. INELIGIBILITY OF INDIAN TRIBES."

"Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas shall not be eligible applicants for amounts made available for assistance under this subtitle for fiscal year 1997 and fiscal years thereafter.".

(b) APPLICABILITY--The amendments under subsection (a) shall apply with respect to amounts made available for assistance under subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

Sec. 505. TERMINATION OF HOME PROGRAM ASSISTANCE.

(a) IN GENERAL--Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended--

(1) in section 217(a)--

(A) in paragraph (1), by striking "reserving amounts under paragraph (2) for Indian tribes and after"; and

(B) by striking paragraph (2); and

(2) in section 288--

(A) in subsection (a), by striking ", Indian tribes,";

(B) in subsection (b), by striking ", Indian tribe,"; and

(C) in subsection (c)(4), by striking ", Indian tribe,".

(b) APPLICABILITY--The amendments under subsection (a) shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

Sec. 506. TERMINATION OF HOUSING ASSISTANCE FOR THE HOMELESS.

(a) MCKINNEY ACT PROGRAMS--Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended--

(1) in section 411, by striking paragraph (10);

(2) in section 412, by striking ", and for Indian tribes,";

(3) in section 413--

(A) in subsection (a)--

(i) by striking ", and to Indian tribes,"; and

(ii) by striking ", or for Indian tribes" each place it appears;

(B) in subsection (c), by striking "or Indian tribe"; and

(C) in subsection (d)(3)--

(i) by striking ", or Indian tribe" each place it appears; and

(ii) by striking ", or other Indian tribes,";

(4) in section 414(a)--

(A) by striking "or Indian tribe" each place it appears; and

(B) by striking ", local government," each place it appears and inserting "or local government";

(5) in section 415(c)(4), by striking "Indian tribes,";

(6) in section 416(b), by striking "Indian tribe,";

(7) in section 422--

(A) by striking "Indian tribe,"; and

(B) by striking paragraph (3);

(8) in section 441--

(A) by striking subsection (g);

(B) in subsection (h), by striking "or Indian housing authority"; and

(C) in subsection (j)(1), by striking ", Indian housing authority";

(9) in section 462--

(A) in paragraph (2), by striking ", Indian tribe,"; and

(B) by striking paragraph (4); and

(10) in section 491(e), by striking ", Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974),".

(b) INNOVATIVE HOMELESS DEMONSTRATION--Section 2(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 11301 note) is amended--

(1) in paragraph (3), by striking "'unit of general local government', and 'Indian tribe'" and inserting "and 'unit of general local government'"; and

(2) in paragraph (4), by striking "unit of general local government (including units in rural areas), or Indian tribe" and inserting "or unit of general local government".

(c) APPLICABILITY--The amendments under subsections (a) and (b) shall apply with respect to amounts made available for assistance under title IV of the Stewart B. McKinney Homeless Assistance Act and section 2 of the HUD Demonstration Act of 1993, respectively, for fiscal year 1998 and fiscal years thereafter.

Sec. 507. SAVINGS PROVISION.

(a) EXISTING RIGHTS AND DUTIES--Except as provided in sections 502 and 503, this Act may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into before October 1, 1997, under the United States Housing Act of 1937, subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993.

(b) OBLIGATIONS UNDER REPEALED PROVISIONS--Notwithstanding the amendments made by this title, any obligation of the Secretary made under or pursuant to subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993 shall

continue to be governed by the provisions of such Acts (as in effect before the date of the effectiveness of the amendments made by this title).

Sec. 508. EFFECTIVE DATE.

Sections 502, 503, and 507 shall take effect on the date of the enactment of this Act.

TITLE VI -- FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES

Sec. 601. AUTHORITY AND REQUIREMENTS. [25 U.S.C. 4191]

(a) AUTHORITY--To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in section 202.

(b) LACK OF FINANCING ELSEWHERE--A guarantee under this title may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

(c) TERMS OF LOANS--Notes or other obligations guaranteed pursuant to this title shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this title on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(d) LIMITATION ON OUTSTANDING GUARANTEES--No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III.

Sec. 602. SECURITY AND REPAYMENT. [25 U.S.C. 4192]

(a) REQUIREMENTS ON ISSUER To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to--

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title;

(2) pledge any grant for which the issuer may become eligible under this Act;

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under title I, taking into consideration the requirements under section 203(b); and

(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or disposition proceeds from the sale of land or rehabilitated property.

(b) REPAYMENT FROM GRANT AMOUNTS--Notwithstanding any other provision of this Act--

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this Act for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

(c) FULL FAITH AND CREDIT--The full faith and credit of the United States is pledged to the payment of all guarantees made under this title. Any such guarantee made by the Secretary shall be conclusive evidence of the

eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

Sec. 603. PAYMENT OF INTEREST. [25 U.S.C. 4193]

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

Sec. 604. TRAINING AND INFORMATION. [25 U.S.C. 4194]

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this title.

Sec. 605. LIMITATIONS ON AMOUNT OF GUARANTEES. [25 U.S.C. 4195]

(a) AGGREGATE FISCAL YEAR LIMITATION--Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this title, to the extent approved or provided in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this title with an aggregate principal amount not to exceed $400,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY--There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this title such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(c) AGGREGATE OUTSTANDING LIMITATION--The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this title shall not at any time exceed $2,000,000,000 or such higher amount as may be authorized to be appropriated for this title for any fiscal year.

(d) FISCAL YEAR LIMITATIONS ON TRIBES--The Secretary shall monitor the use of guarantees under this title by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may--

(1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of $50,000,000; or

(2) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this title.

Sec. 606. EFFECTIVE DATE. [25 U.S.C. 4191]

This title shall take effect on the date of the enactment of this Act.

TITLE VII -- OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

Sec. 701. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) DEFINITION OF ELIGIBLE BORROWERS TO INCLUDE INDIAN TRIBES--Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z-13a) is amended--

(1) in subsection (a)--

(A) by striking "and Indian housing authorities" and inserting ", Indian housing authorities, and Indian tribes,"; and

(B) by striking "or Indian housing authority" and inserting ", Indian housing authority, or Indian tribe"; and

(2) in subsection (b)(1), by striking "or Indian housing authorities" and inserting ", Indian housing authorities, or Indian tribes".

(b) NEED FOR LOAN GUARANTEE--Section 184(a) of the Housing and Community Development Act of

1992 (12 U.S.C. 1715z-13a(a)) is amended by striking "trust land" and inserting "lands or as a result of a lack of access to private financial markets".

(c) IHP REQUIREMENT--Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(b)(2)) is amended by inserting before the period at the end the following: "that is under the jurisdiction of an Indian tribe for which an Indian housing plan has been submitted and approved pursuant to sections 102 and 103 of the Native American Housing Assistance and Self-Determination Act of 1996 that provides for the use of loan guarantees under this section to provide affordable homeownership housing in such areas".

(d) LENDER OPTION TO OBTAIN PAYMENT UPON DEFAULT WITHOUT FORECLOSURE--Section 184(h) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(h)) is amended--

(1) in paragraph (1)(A)—

(A) in the first sentence of clause (i), by striking 'in a court of competent jurisdiction'; and

(B) by striking clause (ii) and inserting the following:

"(ii) NO FORECLOSURE--Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(e) LIMITATION OF MORTGAGEE AUTHORITY--Section 184(h)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(h)(2)), as so redesignated by subsection (e)(3) of this section, is amended--

(1) in the first sentence, by striking "tribal allotted or trust land," and inserting "restricted Indian land, the mortgagee or"; and

(2) in the second sentence, by striking "Secretary" each place it appears, and inserting "mortgagee or the Secretary".

(f) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT--Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(i)(5)(C)) is amended by striking "1993" and all that follows through "such year" and inserting "1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount note exceeding $400,000,000 for each such fiscal year".

(g) AUTHORIZATION OF APPROPRIATIONS FOR GUARANTEE FUND--Section 184(i)(7) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(i)(7)) is amended by striking "such sums" and all that follows through "1994" and inserting "such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001".

(h) DEFINITIONS--Section 184(k) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(k)) is amended—

(1) in paragraph (4), by inserting after "authority" the following: "or Indian tribe";

(2) in paragraph (5)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) is authorized to engage in or assist in the development or operation of--

"(i) low-income housing for Indians; or

"(ii) housing subject to the provisions of this section; and"; and

(B) by adding at the end the following: "The term includes tribally designated housing entities under the Native American Housing Assistance and Self-Determination Act of 1996."; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) TRIBE; INDIAN TRIBE--The term "tribe" or "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized

as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.".

(i) PRINCIPAL OBLIGATION AMOUNTS--Section 184(b)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(b)(5)(C)) is amended by striking clause (i) and inserting the following new clause:

"(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); and".

(j) AVAILABILITY OF AMOUNTS--

(1) REQUIREMENT OF APPROPRIATIONS--Section 184(i)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(i)(5)) is amended by striking subparagraph (A) and inserting the following:

"(A) REQUIREMENT OF APPROPRIATIONS--The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.".

(2) COSTS--Section 184(i)(5)(B) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(i)(5)(B)) is amended by adding at the end the following new sentence: "Any amounts appropriated pursuant to this subparagraph shall remain available until expended.".

(k) GNMA AUTHORITY--The first sentence of section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting before the period at the end the following: "; or guaranteed under section 184 of the Housing and Community Development Act of 1992".

Sec. 702. 50-YEAR LEASEHOLD INTEREST IN TRUST OR RESTRICTED LANDS FOR HOUSING PURPOSES.

(a) AUTHORITY TO LEASE--Notwithstanding any other provision of law, any trust or restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, subject to the approval of the affected Indian tribe and the Secretary of the Interior, for housing development and residential purposes.

(b) TERM--Each lease pursuant to subsection (a) shall be for a term not exceeding 50 years.

(c) RULE OF CONSTRUCTION--This section may not be construed to repeal, limit, or affect any authority to lease any trust or restricted Indian lands that--

(1) is conferred by or pursuant to any other provision of law; or

(2) provides for leases for any period exceeding 50 years.

(d) SELF-IMPLEMENTATION--This section is intended to be self-implementing and shall not require the issuance of any rule, regulation, or order to take effect as provided in section 705.

Sec. 703. TRAINING AND TECHNICAL ASSISTANCE.

There are authorized to be appropriated for assistance for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

Sec. 704. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.

The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended--

(1) in section 5123--

(A) by striking "(including Indian Housing Authorities)"; and

(B) by inserting "tribally designated housing entities," before "and private"; and

(2) in section 5124(a)(7)—

(A) by inserting "or tribally designated housing entity after public housing agency; and

(B) by striking "public housing" after nonprofit;

(3) in section 5125, by inserting "a tribally designated housing entity," after "resident management corporation,"; and

(4) in section 5126--

(A) in paragraph (4)--

(i) in subparagraph (B), by striking "or" at the end;
(ii) in subparagraph (C), by striking the period at the end and inserting "; or"; and
(iii) by adding at the end the following new subparagraph:
"(D) the Native American Housing Assistance and Self-Determination Act."; and
(B) by adding at the end the following new paragraph:
"(5) TRIBALLY DESIGNATED HOUSING ENTITY--The term 'tribally designated housing entity' has the meaning given such term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996.".

Sec. 705. EFFECTIVE DATE.
This title and the amendments made by this title (but not including the amendments made by section 704) shall take effect on the date of the enactment of this Act.

Amendments to NAHASDA:
NAHASDA was amended by section 210 of the FY 2001 HUD appropriation act, Public Law 106-377 (Oct. 27, 2000) to permit housing assistance to law enforcement officials.
NAHASDA was also amended by the Omnibus Indian Advancement Act, Public Law. 106-568 (Dec. 27, 2000) and the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569 (Dec. 27, 2000). These two acts contain identical amendments to NAHASDA except that the Omnibus Indian Advancement Act contains (in section 1003(e)) an amendment to permit housing assistance to law enforcement officials. Section 1003(e) is not reflected in this document because the substantive change was already made by the FY 2001 HUD appropriation act.
This document does not show the amendments to NAHASDA from the American Homeownership and Economic Opportunity Act of 2000 because they repeat the amendments already made.
This document may vary from the Basic Laws when updated by Congress and by the services that codify the law; however, the substantive provisions should be in agreement.