

**Calendar No. 713**

105<sup>TH</sup> CONGRESS  
2D SESSION

**S. 109**

[Report No. 105-380]

---

---

**A BILL**

To provide Federal housing assistance to Native  
Hawaiians.

---

---

OCTOBER 8 (legislative day, OCTOBER 2), 1998  
Reported with an amendment

# Calendar No. 713

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 109

[Report No. 105-380]

To provide Federal housing assistance to Native Hawaiians.

---

## IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 1998

Mr. INOUE (for himself and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

OCTOBER 8 (legislative day, OCTOBER 2), 1998

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

---

## A BILL

To provide Federal housing assistance to Native Hawaiians.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native Hawaiian  
5 Housing Assistance Act of 1997”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) The Federal Government has a responsibil-  
5 ity to promote the general welfare of the Nation by  
6 employing its resources to remedy the unsafe and  
7 unsanitary housing conditions and the acute short-  
8 age of decent, safe, and sanitary dwellings for fami-  
9 lies of lower income and by developing effective part-  
10 nerships with governmental and private entities to  
11 accomplish these objectives.

12 (2) Based upon the status of the Kingdom of  
13 Hawaii as an internationally recognized and inde-  
14 pendent sovereign and the unique historical and po-  
15 litical relationship between the United States and  
16 Native Hawaiians, the Native Hawaiian people have  
17 a continuing right to local autonomy in traditional  
18 and cultural affairs and an ongoing right of self-de-  
19 termination and self-governance that has never been  
20 extinguished.

21 (3) The authority of Congress under the Con-  
22 stitution of the United States to legislate and ad-  
23 dress matters affecting the rights of indigenous peo-  
24 ples of the United States includes the authority to  
25 legislate in matters affecting Native Hawaiians.

1           (4) In 1921, in recognition of the severe decline  
2           in the Native Hawaiian population, Congress en-  
3           acted the Hawaiian Homes Commission Act, 1920,  
4           which set aside approximately 200,000 acres of the  
5           ceded public lands for homesteading by Native Ha-  
6           waiians, thereby affirming the special relationship  
7           between the United States and the Native Hawai-  
8           ians.

9           (5) In 1959, under the Act entitled “An Act to  
10          provide for the admission of the State of Hawaii into  
11          the Union”, approved March 18, 1959 (73 Stat. 4),  
12          the United States reaffirmed the special relationship  
13          between the United States and the Native Hawaiian  
14          people—

15                (A) by transferring what the United States  
16                deemed to be a trust responsibility for the ad-  
17                ministration of the Hawaiian Home Lands to  
18                the State of Hawaii, but continuing Federal su-  
19                perintendence by retaining the power to enforce  
20                the trust, including the exclusive right of the  
21                United States to consent to land exchanges and  
22                any amendments to the Hawaiian Homes Com-  
23                mission Act, 1920, enacted by the legislature of  
24                the State of Hawaii affecting the rights of bene-  
25                ficiaries under such Act; and

1           (B) by ceding to the State of Hawaii title  
2           to the public lands formerly held by the United  
3           States, mandating that such lands be held “in  
4           public trust” for “the betterment of the condi-  
5           tions of Native Hawaiians, as defined in the  
6           Hawaiian Homes Commission Act, 1920”, and  
7           continuing Federal superintendence by retain-  
8           ing the exclusive legal responsibility to enforce  
9           this public trust.

10          (6) In recognition of the special relationship  
11          that exists between the United States and the Native  
12          Hawaiian people, Congress has extended to Native  
13          Hawaiians the same rights and privileges accorded  
14          to American Indians and Alaska Natives under the  
15          Native American Programs Act of 1974, the Amer-  
16          ican Indian Religious Freedom Act, the National  
17          Museum of the American Indian Act, the Native  
18          American Graves Protection and Repatriation Act,  
19          the National Historic Preservation Act, the Native  
20          American Languages Act, the American Indian,  
21          Alaska Native and Native Hawaiian Culture and  
22          Arts Development Act, the Job Training and Part-  
23          nership Act, and the Older Americans Act of 1965.

1           (7) The special relationship has been recognized  
2           and reaffirmed by the United States in the area of  
3           housing—

4                   (A) through the authorization of mortgage  
5                   loans insured by the Federal Housing Adminis-  
6                   tration for the purchase, construction, or refi-  
7                   nancing of homes on Hawaiian Home Lands  
8                   under the National Housing Act;

9                   (B) by mandating Native Hawaiian rep-  
10                   resentation on the National Commission on  
11                   American Indian, Alaska Native, and Native  
12                   Hawaiian Housing;

13                   (C) by the inclusion of Native Hawaiians  
14                   in the Native American Veterans' Home Loan  
15                   Equity Act; and

16                   (D) by enactment of the Hawaiian Home  
17                   Lands Recovery Act, which establishes a proe-  
18                   cess that enables the Federal Government to  
19                   convey lands to the Department of Hawaiian  
20                   Home Lands equivalent in value to lands ac-  
21                   quired by the Federal Government.

22           (b) PURPOSES.—The purposes of this Act are as fol-  
23           lows:

24                   (1) To implement the recommendation of the  
25                   National Commission on American Indian, Alaska

1 Native, and Native Hawaiian Housing (in this Act  
2 referred to as the “Commission”) that Congress es-  
3 tablish a Native Hawaiian Housing and Infrastruc-  
4 ture Assistance Program to alleviate and address the  
5 severe housing needs of Native Hawaiians by extend-  
6 ing to them the same Federal housing assistance  
7 available to American Indians and Alaska Natives:

8 (2) To address the following needs of the Na-  
9 tive Hawaiian population, as documented in the  
10 Final Report of the Commission, “Building the Fu-  
11 ture: A Blueprint for Change” (1992); the United  
12 States Department of Housing and Urban Develop-  
13 ment report, “Housing Problems and Needs of Na-  
14 tive Hawaiians (1995);” and the State Department  
15 of Hawaiian Home Lands report “Department of  
16 Hawaiian Home Lands Beneficiary Needs Study”  
17 (1995):

18 (A) Native Hawaiians experience the high-  
19 est percentage of housing problems in the Na-  
20 tion: 49 percent, compared to 44 percent for  
21 American Indian and Alaska Native households  
22 in tribal areas, and 27 percent for all United  
23 States households, particularly in the area of  
24 overcrowding (27 percent versus 3 percent na-

1 tionally) with 36 percent of Hawaiian home-  
2 lands households experiencing overcrowding.

3 (B) Native Hawaiians have the worst hous-  
4 ing conditions in the State of Hawaii and are  
5 seriously over represented in the State's home-  
6 less population, representing over 30 percent.

7 (C) Among the Native Hawaiian popu-  
8 lation, the needs of the native Hawaiians eligi-  
9 ble for Hawaiian homelands are the most se-  
10 vere. 95 percent of the current applicants, ap-  
11 proximately 13,000 Native Hawaiians, are in  
12 need of housing, with one-half of those appli-  
13 cant households facing overcrowding and one-  
14 third paying more than 30 percent of their in-  
15 come for shelter. Under Department of Housing  
16 and Urban Development guidelines, 70.8 per-  
17 cent of Department of Hawaiian Homelands  
18 lessees and applicants fall below the Depart-  
19 ment of Housing and Urban Development me-  
20 dian family income, with more than half having  
21 incomes below 30 percent.

22 **SEC. 3. HOUSING ASSISTANCE.**

23 The Native American Housing Assistance and Self-  
24 Determination Act of 1996 (Public Law 104-330) is  
25 amended by adding at the end the following new title:



1 **“TITLE VIII—HOUSING ASSIST-**  
 2 **ANCE FOR NATIVE HAWAI-**  
 3 **LIANS**

4 **“SEC. 801. DEFINITIONS.**

5 “In this title—

6 “(1) the term ‘Department of Hawaiian Home  
 7 Lands’ means the department of the State of Hawaii  
 8 that is responsible for the administration of the Ha-  
 9 waiian Homes Commission Act, 1920;

10 “(2) the term ‘Hawaiian Home Lands’ means  
 11 those lands set aside by the United States for home-  
 12 steading by Native Hawaiians under the Hawaiian  
 13 Homes Commission Act, 1920, and any other lands  
 14 acquired pursuant to that Act; and

15 “(3) the term ‘Native Hawaiian’ has the same  
 16 meaning as in section 201 of the Hawaiian Homes  
 17 Commission Act, 1920.

18 **“SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING AC-**  
 19 **TIVITIES.**

20 “(a) **AUTHORITY.**—For each fiscal year, the Sec-  
 21 retary shall (to the extent amounts are made available to  
 22 carry out this title) make grants under this section on be-  
 23 half of Native Hawaiian families to carry out affordable  
 24 housing activities in the State of Hawaii. Under such a  
 25 grant, the Secretary shall provide the grant amounts di-

1 rectly to the Department of Hawaiian Home Lands. The  
 2 Department of Hawaiian Home Lands shall, to the maxi-  
 3 mum extent practicable, employ private nonprofit organi-  
 4 zations experienced in the planning and development of  
 5 affordable housing for Native Hawaiians, in order to carry  
 6 out such activities.

7 “(b) **APPLICABILITY OF OTHER PROVISIONS.**—

8 “(1) **IN GENERAL.**—Subject to paragraph (2),  
 9 titles I through IV apply to assistance provided  
 10 under this section in the same manner as titles I  
 11 through IV apply to assistance provided on behalf of  
 12 an Indian tribe under title I.

13 “(2) **EXCEPTION.**—The Secretary may by regu-  
 14 lation provide for such modifications to the applica-  
 15 bility of titles I through IV to assistance provided  
 16 under this section as the Secretary determines to be  
 17 necessary to meet the unique housing needs of Na-  
 18 tive Hawaiians.

19 **“SEC. 803. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated such sums  
 21 as may be necessary to carry out this title for each of  
 22 fiscal years 1997, 1998, 1999, 2000, and 2001.”

1 **SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUS-**  
 2 **ING.**

3 Section 184 of the Housing and Community Develop-  
 4 ment Act of 1992 (12 U.S.C. 1715z-13a) is amended—

5 (1) in subsection (k), by adding at the end the  
 6 following new paragraphs:

7 “(10) The term ‘Hawaiian Home Lands’ means  
 8 those lands set aside by the United States for home-  
 9 steading by Native Hawaiians under the Hawaiian  
 10 Homes Commission Act, 1920, and any other lands  
 11 acquired pursuant to that Act.

12 “(11) The term ‘Native Hawaiian’ has the same  
 13 meaning as in section 201 of the Hawaiian Homes  
 14 Commission Act, 1920.

15 “(12) The term ‘Native Hawaiian housing au-  
 16 thority’ means any public body (or agency or instru-  
 17 mentality thereof) established under the laws of the  
 18 State of Hawaii, that is authorized to engage in or  
 19 assist in the development or operation of low-income  
 20 housing for Native Hawaiians, and includes the De-  
 21 partment of Hawaiian Home Lands and the Office  
 22 of Hawaiian Affairs.”; and

23 (2) by adding at the end the following new sub-  
 24 section:

25 “(l) **APPLICABILITY TO NATIVE HAWAIIAN HOUS-**  
 26 **ING.—**

1           “(1) IN GENERAL.—Subject to paragraphs (2)  
2           and (3), subsections (a) through (k) apply to Native  
3           Hawaiian families, Native Hawaiian housing au-  
4           thorities, and private nonprofit organizations experi-  
5           enced in the planning and development of affordable  
6           housing for Native Hawaiians, in the same manner  
7           as those subsections apply to Indian families and to  
8           Indian housing authorities, respectively.

9           “(2) EXCEPTION.—The Secretary may by regu-  
10          lation provide for such modifications to the applica-  
11          bility of subsections (a) through (k) to Native Ha-  
12          waiian families, Native Hawaiian housing authori-  
13          ties, and private nonprofit organizations experienced  
14          in the planning and development of affordable hous-  
15          ing for Native Hawaiians as the Secretary deter-  
16          mines to be necessary to meet the unique housing  
17          needs of Native Hawaiians.

18          “(3) LIMITATION.—Any assistance provided  
19          under this subsection, including any assistance pro-  
20          vided to Native Hawaiians not residing on the Ha-  
21          waiian Home Lands, shall be limited to the State of  
22          Hawaii.

23          “(4) AUTHORIZATION OF APPROPRIATIONS.—  
24          There are authorized to be appropriated such sums  
25          as may be necessary to carry out this subsection.”.

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Native American Hous-*  
3 *ing Assistance and Self-Determination Amendments of*  
4 *1998”.*

5 **SEC. 2. FINDINGS.**

6       *Congress finds that—*

7           (1) *the United States has undertaken a respon-*  
8 *sibility to promote the general welfare of the United*  
9 *States by—*

10               (A) *employing its resources to remedy the*  
11 *unsafe and unsanitary housing conditions and*  
12 *the acute shortage of decent, safe, and sanitary*  
13 *dwellings for families of lower income; and*

14               (B) *developing effective partnerships with*  
15 *governmental and private entities to accomplish*  
16 *the objectives referred to in subparagraph (A);*

17           (2) *pursuant to the provisions of the Hawaiian*  
18 *Homes Commission Act, 1920 (42 Stat. 108 et seq.),*  
19 *the United States set aside 200,000 acres of land in*  
20 *the Federal territory that later became the State of*  
21 *Hawaii in order to establish a homeland for the na-*  
22 *tive people of Hawaii—Native Hawaiians;*

23           (3) *despite the intent of Congress in 1920 to ad-*  
24 *dress the housing needs of Native Hawaiians through*  
25 *the enactment of the Hawaiian Homes Commission*  
26 *Act, 1920 (42 Stat. 108 et seq.), some agencies of the*

1       *Federal Government have taken the legal position that*  
2       *subsequently enacted Federal housing laws designed to*  
3       *address the housing needs of all eligible families in*  
4       *the United States could not be extended to address the*  
5       *needs for housing and infrastructure development on*  
6       *Hawaiian home lands (as that term is defined in sec-*  
7       *tion 801 of the Native American Housing Assistance*  
8       *and Self-Determination Act of 1996, as added by sec-*  
9       *tion 3 of this Act) with the result that otherwise eligi-*  
10       *ble Native Hawaiians residing on the Hawaiian*  
11       *home lands have been foreclosed from participating in*  
12       *Federal housing assistance programs available to all*  
13       *other eligible families in the United States;*

14               *(4) although Federal housing assistance pro-*  
15       *grams have been administered on a racially neutral*  
16       *basis in the State of Hawaii, Native Hawaiians con-*  
17       *tinue to have the greatest unmet need for housing and*  
18       *the highest rates of overcrowding in the United States;*

19               *(5) among the Native American population of*  
20       *the United States, Native Hawaiians experience the*  
21       *highest percentage of housing problems in the United*  
22       *States, as the percentage—*

23                       *(A) of housing problems in the Native Ha-*  
24       *waiian population is 49 percent, as compared*  
25       *to—*

1                   (i) 44 percent for American Indian  
2                   and Alaska Native households in Indian  
3                   country; and

4                   (ii) 27 percent for all other households  
5                   in the United States; and

6                   (B) overcrowding in the Native Hawaiian  
7                   population is 36 percent as compared to 3 per-  
8                   cent for all other households in the United  
9                   States;

10                  (6) among the Native Hawaiian population, the  
11                  needs of Native Hawaiians, as that term is defined in  
12                  section 801 of the Native American Housing Assist-  
13                  ance and Self-Determination Act of 1996, as added by  
14                  section 3 of this Act, eligible to reside on the Hawai-  
15                  ian Home Lands are the most severe, as—

16                         (A) the percentage of overcrowding in Na-  
17                         tive Hawaiian households on the Hawaiian  
18                         Home Lands is 36 percent; and

19                         (B) approximately 13,000 Native Hawai-  
20                         ians, which constitute 95 percent of the Native  
21                         Hawaiians who are eligible to reside on the Ha-  
22                         waiian Home Lands, are in need of housing;

23                  (7) applying the Department of Housing and  
24                  Urban Development guidelines—

1           (A) 70.8 percent of Native Hawaiians who  
2           either reside or who are eligible to reside on the  
3           Hawaiian Home Lands have incomes that fall  
4           below the median family income; and

5           (B) 50 percent of Native Hawaiians who ei-  
6           ther reside or who are eligible to reside on the  
7           Hawaiian Home Lands have incomes below 30  
8           percent of the median family income; and

9           (8)  $\frac{1}{3}$  of those Native Hawaiians who are eligi-  
10          ble to reside on the Hawaiian Home Lands pay more  
11          than 30 percent of their income for shelter, and  $\frac{1}{2}$  of  
12          those Native Hawaiians face overcrowding;

13          (9) the extraordinarily severe housing needs of  
14          Native Hawaiians demonstrate that Native Hawai-  
15          ians who either reside on, or are eligible to reside on,  
16          Hawaiian Home Lands have been denied equal access  
17          to Federal low-income housing assistance programs  
18          available to other qualified residents of the United  
19          States, and that a more effective means of addressing  
20          their housing needs must be authorized;

21          (10) consistent with the recommendations of the  
22          National Commission on American Indian, Alaska  
23          Native, and Native Hawaiian Housing, and in order  
24          to address the continuing prevalence of extraor-  
25          dinarily severe housing needs among Native Hawai-



1        *ians who either reside or are eligible to reside on the*  
2        *Hawaiian Home Lands, Congress finds it necessary*  
3        *to extend the Federal low-income housing assistance*  
4        *available to American Indians and Alaska Natives*  
5        *under the Native American Housing Assistance and*  
6        *Self-Determination Act of 1996 (25 U.S.C. 4101 et*  
7        *seq.) to those Native Hawaiians;*

8            *(11) under the treaty-making power of the*  
9        *United States, Congress had the authority to confirm*  
10       *a treaty between the United States and the govern-*  
11       *ment that represented the Hawaiian people, and*  
12       *under clause 3 of section 8 of article I of the Constitu-*  
13       *tion, the authority of Congress to address matters af-*  
14       *fecting the indigenous peoples of the United States in-*  
15       *cludes the authority to address matters affecting Na-*  
16       *tive Hawaiians;*

17            *(12) through treaties, Federal statutes, and rul-*  
18        *ings of the Federal courts, the United States has rec-*  
19        *ognized and reaffirmed that—*

20            *(A) the political status of Native Hawaiians*  
21        *is comparable to that of American Indians and*  
22        *Alaska Natives; and*

23            *(B) the aboriginal, indigenous people of the*  
24        *United States have—*

1                   (i) a continuing right to autonomy in  
2                   their internal affairs; and

3                   (ii) an ongoing right of self-determina-  
4                   tion and self-governance that has never been  
5                   extinguished;

6                   (13) the political relationship between the United  
7                   States and the Native Hawaiian people has been rec-  
8                   ognized and reaffirmed by the United States as evi-  
9                   denced by the inclusion of Native Hawaiians in—

10                   (A) the Native American Programs Act of  
11                   1974 (42 U.S.C. 2291 et seq.);

12                   (B) the American Indian Religious Free-  
13                   dom Act (42 U.S.C. 1996 et seq.);

14                   (C) the National Museum of the American  
15                   Indian Act (20 U.S.C. 80q et seq.);

16                   (D) the Native American Graves Protection  
17                   and Repatriation Act (25 U.S.C. 3001 et seq.);

18                   (E) the National Historic Preservation Act  
19                   (16 U.S.C. 470 et seq.);

20                   (F) the Native American Languages Act of  
21                   1992 (106 Stat. 3434);

22                   (G) the American Indian, Alaska Native  
23                   and Native Hawaiian Culture and Arts Develop-  
24                   ment Act (20 U.S.C. 4401 et seq.);

1                   (H) *the Job Training Partnership Act (29*  
2                   *U.S.C. 1501 et seq.); and*

3                   (I) *the Older Americans Act of 1965 (42*  
4                   *U.S.C. 3001 et seq.); and*

5                   (14) *in the area of housing, the United States*  
6                   *has recognized and reaffirmed the political relation-*  
7                   *ship with the Native Hawaiian people through—*

8                   (A) *the enactment of the Hawaiian Homes*  
9                   *Commission Act, 1920 (42 Stat. 108 et seq.),*  
10                  *which set aside approximately 200,000 acres of*  
11                  *public lands that became known as Hawaiian*  
12                  *Home Lands in the Territory of Hawaii that*  
13                  *had been ceded to the United States for home-*  
14                  *steading by Native Hawaiians in order to reha-*  
15                  *ilitate a landless and dying people;*

16                  (B) *the enactment of the Act entitled “An*  
17                  *Act to provide for the admission of the State of*  
18                  *Hawaii into the Union”, approved March 18,*  
19                  *1959 (73 Stat. 4)—*

20                         (i) *by ceding to the State of Hawaii*  
21                         *title to the public lands formerly held by the*  
22                         *United States, and mandating that those*  
23                         *lands be held in public trust, for the better-*  
24                         *ment of the conditions of Native Hawaiians,*  
25                         *as that term is defined in section 801(15) of*

1           *the Native American Housing Assistance*  
2           *and Self-Determination Act of 1996, as*  
3           *added by section 3 of this Act; and*

4                     *(ii) by transferring what the United*  
5           *States considered to be a trust responsibility*  
6           *for the administration of Hawaiian Home*  
7           *Lands to the State of Hawaii, but retaining*  
8           *the authority to enforce the trust, including*  
9           *the exclusive right of the United States to*  
10          *consent to any actions affecting the lands*  
11          *which comprise the corpus of the trust and*  
12          *any amendments to the Hawaiian Homes*  
13          *Commission Act, 1920 (42 Stat. 108 et*  
14          *seq.), enacted by the legislature of the State*  
15          *of Hawaii affecting the rights of bene-*  
16          *ficiaries under the Act;*

17                     *(C) the authorization of mortgage loans in-*  
18          *sured by the Federal Housing Administration for*  
19          *the purchase, construction, or refinancing of*  
20          *homes on Hawaiian Home Lands under the Act*  
21          *of June 27, 1934 (commonly referred to as the*  
22          *“National Housing Act” (42 Stat. 1246 et seq.,*  
23          *chapter 847; 12 U.S.C. 1701 et seq.));*

24                     *(D) authorizing Native Hawaiian represen-*  
25          *tation on the National Commission on American*

1           *Indian, Alaska Native, and Native Hawaiian*  
 2           *Housing under Public Law 101–235;*

3                   *(E) the inclusion of Native Hawaiians in*  
 4           *the definition under section 3764 of title 38,*  
 5           *United States Code, applicable to subchapter V*  
 6           *of chapter 37 of title 38, United States Code (re-*  
 7           *lating to a housing loan program for Native*  
 8           *American veterans); and*

9                   *(F) the enactment of the Hawaiian Home*  
 10          *Lands Recovery Act (109 Stat. 357; 48 U.S.C.*  
 11          *491, note prec.) which establishes a process for*  
 12          *the conveyance of Federal lands to the Depart-*  
 13          *ment of Hawaiian Homes Lands that are equiv-*  
 14          *alent in value to lands acquired by the United*  
 15          *States from the Hawaiian Home Lands inven-*  
 16          *tory.*

17 **SEC. 3. HOUSING ASSISTANCE.**

18           *The Native American Housing Assistance and Self-De-*  
 19          *termination Act of 1996 (25 U.S.C. 4101 et seq.) is amend-*  
 20          *ed by adding at the end the following:*

21 **“TITLE VIII—HOUSING ASSIST-**  
 22       **ANCE FOR NATIVE HAWAI-**  
 23       **ANS**

24 **“SEC. 801. DEFINITIONS.**

25           *“In this title:*

1           “(1) *DEPARTMENT OF HAWAIIAN HOME LANDS;*  
 2           *DEPARTMENT.*—*The term ‘Department of Hawaiian*  
 3           *Home Lands’ or ‘Department’ means the agency or*  
 4           *department of the government of the State of Hawaii*  
 5           *that is responsible for the administration of the Ha-*  
 6           *waiian Homes Commission Act, 1920 (42 Stat. 108*  
 7           *et seq.).*

8           “(2) *DIRECTOR.*—*The term ‘Director’ means the*  
 9           *Director of the Department of Hawaiian Home*  
 10           *Lands.*

11           “(3) *ELDERLY FAMILIES; NEAR-ELDERLY FAMI-*  
 12           *LIES.*—

13           “(A) *IN GENERAL.*—*The term ‘elderly fam-*  
 14           *ily’ or ‘near-elderly family’ means a family*  
 15           *whose head (or his or her spouse), or whose sole*  
 16           *member, is—*

17                   “(i) *for an elderly family, an elderly*  
 18                   *person; or*

19                   “(ii) *for a near-elderly family, a near-*  
 20                   *elderly person.*

21           “(B) *CERTAIN FAMILIES INCLUDED.*—*The*  
 22           *term ‘elderly family’ or ‘near-elderly family’ in-*  
 23           *cludes—*

1                   “(i) 2 or more elderly persons or near-  
2                   elderly persons, as the case may be, living  
3                   together; and

4                   “(ii) 1 or more persons described in  
5                   clause (i) living with 1 or more persons de-  
6                   termined under the housing plan to be es-  
7                   sential to their care or well-being.

8                   “(4) HAWAIIAN HOME LANDS.—The term ‘Ha-  
9                   waiian Home Lands’ means lands that—

10                   “(A) have the status as Hawaiian home  
11                   lands under section 204 of the Hawaiian Homes  
12                   Commission Act (42 Stat. 110); or

13                   “(B) are acquired pursuant to that Act.

14                   “(5) HOUSING AREA.—The term ‘housing area’  
15                   means an area of Hawaiian Home Lands with re-  
16                   spect to which the Department of Hawaiian Home  
17                   Lands is authorized to provide assistance for afford-  
18                   able housing under this Act.

19                   “(6) HOUSING ENTITY.—The term ‘housing en-  
20                   tity’ means the Department of Hawaiian Home  
21                   Lands.

22                   “(7) HOUSING PLAN.—The term ‘housing plan’  
23                   means a plan developed by the Department of Hawai-  
24                   ian Home Lands.

1           “(8) *MEDIAN INCOME.*—*The term ‘median in-*  
 2           *come’ means, with respect to an area that is a Ha-*  
 3           *waiian housing area, the greater of—*

4                   “(A) *the median income for the Hawaiian*  
 5                   *housing area, which shall be determined by the*  
 6                   *Secretary; or*

7                   “(B) *the median income for the State of*  
 8                   *Hawaii.*

9           “(9) *NATIVE HAWAIIAN.*—*The term ‘Native Ha-*  
 10           *waiian’ has the meaning given the term ‘Native Ha-*  
 11           *waiian’ in section 201 of the Hawaiian Homes Com-*  
 12           *mission Act, 1920 (42 Stat. 108 et seq.).*

13   **“SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING AC-**  
 14                   **TIVITIES.**

15           “(a) *GRANT AUTHORITY.*—*For each fiscal year, the*  
 16           *Secretary shall (to the extent amounts are made available*  
 17           *to carry out this title) make a grant under this title to the*  
 18           *Department of Hawaiian Home Lands to carry out afford-*  
 19           *able housing activities for Native Hawaiian families on or*  
 20           *near Hawaiian Home Lands.*

21           “(b) *PLAN REQUIREMENT.*—

22                   “(1) *IN GENERAL.*—*The Secretary may make a*  
 23                   *grant under this title to the Department of Hawaiian*  
 24                   *Home Lands for a fiscal year only if—*



1           “(A) *the Director has submitted to the Sec-*  
2           *retary a housing plan for that fiscal year; and*

3           “(B) *the Secretary has determined under*  
4           *section 804 that the housing plan complies with*  
5           *the requirements of section 803.*

6           “(2) *WAIVER.—The Secretary may waive the ap-*  
7           *plicability of the requirements under paragraph (1),*  
8           *in part, if the Secretary finds that the Department of*  
9           *Hawaiian Home Lands has not complied or cannot*  
10          *comply with those requirements due to circumstances*  
11          *beyond the control of the Department of Hawaiian*  
12          *Home Lands.*

13          “(c) *USE OF AFFORDABLE HOUSING ACTIVITIES*  
14          *UNDER PLAN.—Except as provided in subsection (e),*  
15          *amounts provided under a grant under this section may*  
16          *be used only for affordable housing activities under this title*  
17          *that are consistent with a housing plan approved under sec-*  
18          *tion 804.*

19          “(d) *ADMINISTRATIVE EXPENSES.—*

20                 “(1) *IN GENERAL.—The Secretary shall, by regu-*  
21                 *lation, authorize the Department of Hawaiian Home*  
22                 *Lands to use a percentage of any grant amounts re-*  
23                 *ceived under this title for any reasonable administra-*  
24                 *tive and planning expenses of the Department relat-*

1        *ing to carrying out this title and activities assisted*  
 2        *with those amounts.*

3            “(2) *ADMINISTRATIVE AND PLANNING EX-*  
 4        *PENSES.—The administrative and planning expenses*  
 5        *referred to in paragraph (1) include—*

6            “(A) *costs for salaries of individuals en-*  
 7            *gaged in administering and managing affordable*  
 8            *housing activities assisted with grant amounts*  
 9            *provided under this title; and*

10            “(B) *expenses incurred in preparing a*  
 11            *housing plan under section 803.*

12            “(e) *PUBLIC-PRIVATE PARTNERSHIPS.—The Director*  
 13        *shall make all reasonable efforts, consistent with the pur-*  
 14        *poses of this title, to maximize participation by the private*  
 15        *sector, including nonprofit organizations and for-profit en-*  
 16        *tities, in implementing a housing plan that has been ap-*  
 17        *proved by the Secretary under section 803.*

18            “(f) *APPLICABILITY OF OTHER PROVISIONS.—*

19            “(1) *IN GENERAL.—The Secretary shall be guid-*  
 20            *ed by the relevant program requirements of titles I,*  
 21            *II, and IV in the implementation of housing assist-*  
 22            *ance programs for Native Hawaiians under this title.*

23            “(2) *EXCEPTION.—The Secretary may make ex-*  
 24            *ceptions to, or modifications of, program require-*  
 25            *ments for Native American housing assistance set*

1       *forth in titles I, II, and IV as necessary and appro-*  
2       *prate to meet the unique situation and housing needs*  
3       *of Native Hawaiians.*

4       **“SEC. 803. HOUSING PLAN.**

5       “(a) *PLAN SUBMISSION.*—*The Secretary shall—*

6               “(1) *require the Director to submit a housing*  
7       *plan under this section for each fiscal year; and*

8               “(2) *provide for the review of each plan submit-*  
9       *ted under paragraph (1).*

10       “(b) *5-YEAR PLAN.*—*Each housing plan under this*  
11 *section shall—*

12               “(1) *be in a form prescribed by the Secretary;*  
13       *and*

14               “(2) *contain, with respect to the 5-year period*  
15       *beginning with the fiscal year for which the plan is*  
16       *submitted, the following information:*

17                       “(A) *MISSION STATEMENT.*—*A general*  
18       *statement of the mission of the Department of*  
19       *Hawaiian Home Lands to serve the needs of the*  
20       *low-income families to be served by the Depart-*  
21       *ment.*

22                       “(B) *GOAL AND OBJECTIVES.*—*A statement*  
23       *of the goals and objectives of the Department of*  
24       *Hawaiian Home Lands to enable the Depart-*

1           *ment to serve the needs identified in subpara-*  
2           *graph (A) during the period.*

3           “(C) *ACTIVITIES PLANS.*—*An overview of*  
4           *the activities planned during the period includ-*  
5           *ing an analysis of the manner in which the ac-*  
6           *tivities will enable the Department to meet its*  
7           *mission, goals, and objectives.*

8           “(c) *1-YEAR PLAN.*—*A housing plan under this section*  
9           *shall—*

10           “(1) *be in a form prescribed by the Secretary;*  
11           *and*

12           “(2) *contain the following information relating*  
13           *to the fiscal year for which the assistance under this*  
14           *title is to be made available:*

15           “(A) *GOALS AND OBJECTIVES.*—*A statement*  
16           *of the goals and objectives to be accomplished*  
17           *during the period covered by the plan.*

18           “(B) *STATEMENT OF NEEDS.*—*A statement*  
19           *of the housing needs of the low-income families*  
20           *served by the Department and the means by*  
21           *which those needs will be addressed during the*  
22           *period covered by the plan, including—*

23           “(i) *a description of the estimated*  
24           *housing needs and the need for assistance*  
25           *for the low-income families to be served by*

1           the Department, including a description of  
2           the manner in which the geographical dis-  
3           tribution of assistance is consistent with—

4                   “(I) the geographical needs of  
5                   those families; and

6                   “(II) needs for various categories  
7                   of housing assistance; and

8                   “(ii) a description of the estimated  
9                   housing needs for all families to be served  
10                  by the Department.

11                 “(C) *FINANCIAL RESOURCES*.—An operat-  
12                 ing budget for the Department of Hawaiian  
13                 Home Lands, in a form prescribed by the Sec-  
14                 retary, that includes—

15                   “(i) an identification and a descrip-  
16                   tion of the financial resources reasonably  
17                   available to the Department to carry out the  
18                   purposes of this title, including an expla-  
19                   nation of the manner in which amounts  
20                   made available will be used to leverage ad-  
21                   ditional resources; and

22                   “(ii) the uses to which the resources de-  
23                   scribed in clause (i) will be committed, in-  
24                   cluding—

1                   “(I) eligible and required afford-  
2                   able housing activities; and

3                   “(II) administrative expenses.

4                   “(D) AFFORDABLE HOUSING RESOURCES.—

5                   *A statement of the affordable housing resources*  
6                   *currently available at the time of the submittal*  
7                   *of the plan and to be made available during the*  
8                   *period covered by the plan, including—*

9                   “(i) a description of the significant  
10                  characteristics of the housing market in the  
11                  State of Hawaii, including the availability  
12                  of housing from other public sources, private  
13                  market housing; and

14                  “(ii) the manner in which the charac-  
15                  teristics referred to in clause (i) influence  
16                  the decision of the Department of Hawaiian  
17                  Home Lands to use grant amounts to be  
18                  provided under this title for—

19                         “(I) rental assistance;

20                         “(II) the production of new units;

21                         “(III) the acquisition of existing  
22                         units; or

23                         “(IV) the rehabilitation of units;

24                         “(iii) a description of the structure, co-  
25                         ordination, and means of cooperation be-

1           *tween the Department of Hawaiian Home*  
2           *Lands and any other governmental entities*  
3           *in the development, submission, or imple-*  
4           *mentation of housing plans, including a de-*  
5           *scription of—*

6                     *“(I) the involvement of private,*  
7                     *public, and nonprofit organizations*  
8                     *and institutions;*

9                     *“(II) the use of loan guarantees*  
10                    *under section 184A of the Housing and*  
11                    *Community Development Act of 1992;*  
12                    *and*

13                    *“(III) other housing assistance*  
14                    *provided by the United States, includ-*  
15                    *ing loans, grants, and mortgage insur-*  
16                    *ance;*

17                    *“(iv) a description of the manner in*  
18                    *which the plan will address the needs iden-*  
19                    *tified pursuant to subparagraph (C);*

20                    *“(v) a description of—*

21                    *“(I) any existing or anticipated*  
22                    *homeownership programs and rental*  
23                    *programs to be carried out during the*  
24                    *period covered by the plan; and*

1           “(II) the requirements and assist-  
2           ance available under the programs re-  
3           ferred to in subclause (I);

4           “(vi) a description of—

5                 “(I) any existing or anticipated  
6                 housing rehabilitation programs nec-  
7                 essary to ensure the long-term viability  
8                 of the housing to be carried out during  
9                 the period covered by the plan; and

10           “(II) the requirements and assist-  
11           ance available under the programs re-  
12           ferred to in subclause (I);

13           “(vii) a description of—

14                 “(I) all other existing or antici-  
15                 pated housing assistance provided by  
16                 the Department of Hawaiian Home  
17                 Lands during the period covered by the  
18                 plan, including—

19                         “(aa) transitional housing;

20                         “(bb) homeless housing;

21                         “(cc) college housing; and

22                         “(dd) supportive services  
23                         housing; and

24           “(II) the requirements and assist-  
25           ance available under such programs;



1                   “(viii)(I) a description of any housing  
2                   to be demolished or disposed of;

3                   “(II) a timetable for that demolition or  
4                   disposition; and

5                   “(III) any other information required  
6                   by the Secretary with respect to that demo-  
7                   lition or disposition;

8                   “(ix) a description of the manner in  
9                   which the Department of Hawaiian Home  
10                  Lands will coordinate with welfare agencies  
11                  in the State of Hawaii to ensure that resi-  
12                  dents of the affordable housing will be pro-  
13                  vided with access to resources to assist in  
14                  obtaining employment and achieving self-  
15                  sufficiency;

16                  “(x) a description of the requirements  
17                  established by the Department of Hawaiian  
18                  Home Lands to—

19                         “(I) promote the safety of resi-  
20                         dents of the affordable housing;

21                         “(II) facilitate the undertaking of  
22                         crime prevention measures;

23                         “(III) allow resident input and  
24                         involvement, including the establish-  
25                         ment of resident organizations; and

1                   “(IV) allow for the coordination of  
2                   *crime prevention activities between the*  
3                   *Department and local law enforcement*  
4                   *officials; and*

5                   “(xi) a description of the entities that  
6                   *will carry out the activities under the plan,*  
7                   *including the organizational capacity and*  
8                   *key personnel of the entities.*

9                   “(E) CERTIFICATION OF COMPLIANCE.—  
10                  *Evidence of compliance that shall include, as ap-*  
11                  *propriate—*

12                  “(i) a certification that the Depart-  
13                  *ment of Hawaiian Home Lands will com-*  
14                  *ply with—*

15                  “(I) title VI of the Civil Rights  
16                  *Act of 1964 (42 U.S.C. 2000d et seq.)*  
17                  *or with title VIII of the Civil Rights*  
18                  *Act of 1968 (42 U.S.C. 3601 et seq.) in*  
19                  *carrying out this title, to the extent*  
20                  *that such title is applicable; and*

21                  “(II) other applicable Federal  
22                  *statutes;*

23                  “(ii) a certification that the Depart-  
24                  *ment will require adequate insurance cov-*  
25                  *erage for housing units that are owned and*

1           *operated or assisted with grant amounts*  
2           *provided under this title, in compliance*  
3           *with such requirements as may be estab-*  
4           *lished by the Secretary;*

5           “(iii) *a certification that policies are*  
6           *in effect and are available for review by the*  
7           *Secretary and the public governing the eli-*  
8           *gibility, admission, and occupancy of fami-*  
9           *lies for housing assisted with grant amounts*  
10          *provided under this title;*

11          “(iv) *a certification that policies are in*  
12          *effect and are available for review by the*  
13          *Secretary and the public governing rents*  
14          *charged, including the methods by which*  
15          *such rents or homebuyer payments are de-*  
16          *termined, for housing assisted with grant*  
17          *amounts provided under this title; and*

18          “(v) *a certification that policies are in*  
19          *effect and are available for review by the*  
20          *Secretary and the public governing the*  
21          *management and maintenance of housing*  
22          *assisted with grant amounts provided under*  
23          *this title.*

24          “(d) *APPLICABILITY OF CIVIL RIGHTS STATUTES.—*

1           “(1) *IN GENERAL.*—*To the extent that the re-*  
2           *quirements of title VI of the Civil Rights Act of 1964*  
3           *(42 U.S.C. 2000d et seq.) or of title VIII of the Civil*  
4           *Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to*  
5           *assistance provided under this title, nothing in the re-*  
6           *quirements concerning discrimination on the basis of*  
7           *race shall be construed to prevent the provision of as-*  
8           *sistance under this title—*

9                     “(A) *to the Department of Hawaiian Home*  
10            *Lands on the basis that the Department served*  
11            *Native Hawaiians; or*

12                     “(B) *to an eligible family on the basis that*  
13            *the family is a Native Hawaiian family.*

14           “(2) *CIVIL RIGHTS.*—*Program eligibility under*  
15            *this title may be restricted to Native Hawaiians. Sub-*  
16            *ject to the preceding sentence, no person may be dis-*  
17            *criminated against on the basis of race, color, na-*  
18            *tional origin, religion, sex, familial status, or disabil-*  
19            *ity.*

20           “(e) *USE OF NONPROFIT ORGANIZATIONS.*—*As a con-*  
21            *dition of receiving grant amounts under this title, the De-*  
22            *partment of Hawaiian Home Lands shall, to the extent*  
23            *practicable, provide for private nonprofit organizations ex-*  
24            *perienced in the planning and development of affordable*

1 *housing for Native Hawaiians to carry out affordable hous-*  
 2 *ing activities with those grant amounts.*

3 **“SEC. 804. REVIEW OF PLANS.**

4 *“(a) REVIEW AND NOTICE.—*

5 *“(1) REVIEW.—*

6 *“(A) IN GENERAL.—The Secretary shall*  
 7 *conduct a review of a housing plan submitted to*  
 8 *the Secretary under section 803 to ensure that*  
 9 *the plan complies with the requirements of that*  
 10 *section.*

11 *“(B) LIMITATION.—The Secretary shall*  
 12 *have the discretion to review a plan referred to*  
 13 *in subparagraph (A) only to the extent that the*  
 14 *Secretary considers that the review is necessary.*

15 *“(2) NOTICE.—*

16 *“(A) IN GENERAL.—Not later than 60 days*  
 17 *after receiving a plan under section 803, the Sec-*  
 18 *retary shall notify the Director of the Depart-*  
 19 *ment of Hawaiian Home Lands whether the*  
 20 *plan complies with the requirements under that*  
 21 *section.*

22 *“(B) EFFECT OF FAILURE OF SECRETARY*  
 23 *TO TAKE ACTION.—For purposes of this title, if*  
 24 *the Secretary does not notify the Director, as re-*  
 25 *quired under this subsection and subsection (b),*

1           upon the expiration of the 60-day period de-  
2           scribed in subparagraph (A)—

3                   “(i) the plan shall be considered to  
4                   have been determined to comply with the re-  
5                   quirements under section 803; and

6                   “(ii) the Director shall be considered to  
7                   have been notified of compliance.

8           “(b) *NOTICE OF REASONS FOR DETERMINATION OF*  
9 *NONCOMPLIANCE.*—If the Secretary determines that a plan  
10 submitted under section 803 does not comply with the re-  
11 quirements of that section, the Secretary shall specify in  
12 the notice under subsection (a)—

13                   “(1) the reasons for noncompliance; and

14                   “(2) any modifications necessary for the plan to  
15 meet the requirements of section 803.

16           “(c) *REVIEW.*—

17                   “(1) *IN GENERAL.*—After the Director of the De-  
18 partment of Hawaiian Home Lands submits a hous-  
19 ing plan under section 803, or any amendment or  
20 modification to the plan to the Secretary, to the ex-  
21 tent that the Secretary considers such action to be  
22 necessary to make a determination under this sub-  
23 section, the Secretary shall review the plan (including  
24 any amendments or modifications thereto) to deter-  
25 mine whether the contents of the plan—

1           “(A) set forth the information required by  
2           section 803 to be contained in the housing plan;

3           “(B) are consistent with information and  
4           data available to the Secretary; and

5           “(C) are not prohibited by or inconsistent  
6           with any provision of this Act or any other ap-  
7           plicable law.

8           “(2) *INCOMPLETE PLANS.*—If the Secretary de-  
9           termines under this subsection that any of the appro-  
10          priate certifications required under section  
11          803(c)(2)(E) are not included in a plan, the plan  
12          shall be considered to be incomplete.

13          “(d) *UPDATES TO PLAN.*—

14                 “(1) *IN GENERAL.*—Subject to paragraph (2),  
15                 after a plan under section 803 has been submitted for  
16                 a fiscal year, the Director of the Department of Ha-  
17                 waiian Home Lands may comply with the provisions  
18                 of that section for any succeeding fiscal year (with re-  
19                 spect to information included for the 5-year period  
20                 under section 803(b) or for the 1-year period under  
21                 section 803(c)) by submitting only such information  
22                 regarding such changes as may be necessary to update  
23                 the plan previously submitted.

24                 “(2) *COMPLETE PLANS.*—The Director shall sub-  
25                 mit a complete plan under section 803 not later than

1       4 years after submitting an initial plan under that  
 2       section, and not less frequently than every 4 years  
 3       thereafter.

4       “(e) *EFFECTIVE DATE.*—This section and section 803  
 5       shall take effect on the date provided by the Secretary pur-  
 6       suant to section 807(a) to provide for timely submission  
 7       and review of the housing plan as necessary for the provi-  
 8       sion of assistance under this title for fiscal year 2000.

9       **“SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR**  
 10       **STANDARDS.**

11       “(a) *PROGRAM INCOME.*—

12               “(1) *AUTHORITY TO RETAIN.*—The Department  
 13       of Hawaiian Home Lands may retain any program  
 14       income that is realized from any grant amounts re-  
 15       ceived by the Department under this title if—

16                       “(A) that income was realized after the ini-  
 17       tial disbursement of the grant amounts received  
 18       by the Department; and

19                       “(B) the Director agrees to use the program  
 20       income for affordable housing activities in ac-  
 21       cordance with the provisions of this title.

22       “(2) *PROHIBITION OF REDUCTION OF GRANT.*—  
 23       The Secretary may not reduce the grant amount for  
 24       the Department of Hawaiian Home Lands based sole-  
 25       ly on—



1           “(A) whether the Department retains pro-  
2           gram income under paragraph (1); or

3           “(B) the amount of any such program in-  
4           come retained.

5           “(3) *EXCLUSION OF AMOUNTS.*—*The Secretary*  
6           *may, by regulation, exclude from consideration as*  
7           *program income any amounts determined to be so*  
8           *small that compliance with the requirements of this*  
9           *subsection would create an unreasonable administra-*  
10          *tive burden on the Department.*

11          “(b) *LABOR STANDARDS.*—

12           “(1) *IN GENERAL.*—*Any contract or agreement*  
13          *for assistance, sale, or lease pursuant to this title*  
14          *shall contain—*

15           “(A) *a provision requiring that an amount*  
16          *not less than the wages prevailing in the locality,*  
17          *as determined or adopted (subsequent to a deter-*  
18          *mination under applicable State or local law) by*  
19          *the Secretary, shall be paid to all architects,*  
20          *technical engineers, draftsmen, technicians em-*  
21          *ployed in the development and all maintenance,*  
22          *and laborers and mechanics employed in the op-*  
23          *eration, of the affordable housing project in-*  
24          *volved; and*

1           “(B) a provision that an amount not less  
2           than the wages prevailing in the locality, as pre-  
3           determined by the Secretary of Labor pursuant  
4           to the Act commonly known as the ‘Davis-Bacon  
5           Act’ (46 Stat. 1494, chapter 411; 40 U.S.C. 276a  
6           et seq.) shall be paid to all laborers and mechan-  
7           ics employed in the development of the affordable  
8           housing involved.

9           “(2) *EXCEPTIONS.*—Paragraph (1) and provi-  
10          sions relating to wages required under paragraph (1)  
11          in any contract or agreement for assistance, sale, or  
12          lease under this title, shall not apply to any individ-  
13          ual who performs the services for which the individual  
14          volunteered and who is not otherwise employed at any  
15          time in the construction work and received no com-  
16          pensation or is paid expenses, reasonable benefits, or  
17          a nominal fee for those services.

18       **“SEC. 806. ENVIRONMENTAL REVIEW.**

19           “(a) *IN GENERAL.*—

20               “(1) *RELEASE OF FUNDS.*—

21                   “(A) *IN GENERAL.*—The Secretary may  
22                   carry out the alternative environmental protec-  
23                   tion procedures described in subparagraph (B)  
24                   in order to ensure—

1           “(i) that the policies of the National  
2           *Environmental Policy Act of 1969* (42  
3           *U.S.C. 4321 et seq.*) and other provisions of  
4           law that further the purposes of such Act  
5           (as specified in regulations issued by the  
6           Secretary) are most effectively implemented  
7           in connection with the expenditure of grant  
8           amounts provided under this title; and

9           “(ii) to the public undiminished pro-  
10          tection of the environment.

11          “(B) *ALTERNATIVE ENVIRONMENTAL PRO-*  
12          *TECTION PROCEDURE.*—In lieu of applying envi-  
13          ronmental protection procedures otherwise appli-  
14          cable, the Secretary may by regulation provide  
15          for the release of funds for specific projects to the  
16          Department of Hawaiian Home Lands if the Di-  
17          rector of the Department assumes all of the re-  
18          sponsibilities for environmental review, decision-  
19          making, and action under the *National Environ-*  
20          *mental Policy Act of 1969* (42 *U.S.C. 4321 et*  
21          *seq.*), and such other provisions of law as the reg-  
22          ulations of the Secretary specify, that would  
23          apply to the Secretary were the Secretary to un-  
24          dertake those projects as Federal projects.

25          “(2) *REGULATIONS.*—

1           “(A) *IN GENERAL.*—*The Secretary shall*  
2           *issue regulations to carry out this section only*  
3           *after consultation with the Council on Environ-*  
4           *mental Quality.*

5           “(B) *CONTENTS.*—*The regulations issued*  
6           *under this paragraph shall—*

7                   “(i) *provide for the monitoring of the*  
8                   *environmental reviews performed under this*  
9                   *section;*

10                   “(ii) *in the discretion of the Secretary,*  
11                   *facilitate training for the performance of*  
12                   *such reviews; and*

13                   “(iii) *provide for the suspension or ter-*  
14                   *mination of the assumption of responsibil-*  
15                   *ities under this section.*

16           “(3) *EFFECT ON ASSUMED RESPONSIBILITY.*—  
17           *The duty of the Secretary under paragraph (2)(B)*  
18           *shall not be construed to limit or reduce any respon-*  
19           *sibility assumed by the Department of Hawaiian*  
20           *Home Lands for grant amounts with respect to any*  
21           *specific release of funds.*

22           “(b) *PROCEDURE.*—

23                   “(1) *IN GENERAL.*—*The Secretary shall author-*  
24                   *ize the release of funds subject to the procedures under*  
25                   *this section only if, not less than 15 days before that*

1       *approval and before any commitment of funds to such*  
 2       *projects, the Director of the Department of Hawaiian*  
 3       *Home Lands submits to the Secretary a request for*  
 4       *such release accompanied by a certification that meets*  
 5       *the requirements of subsection (c).*

6               “(2) *EFFECT OF APPROVAL.*—*The approval of*  
 7       *the Secretary of a certification described in para-*  
 8       *graph (1) shall be deemed to satisfy the responsibil-*  
 9       *ities of the Secretary under the National Environ-*  
 10       *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*  
 11       *and such other provisions of law as the regulations of*  
 12       *the Secretary specify to the extent that those respon-*  
 13       *sibilities relate to the release of funds for projects that*  
 14       *are covered by that certification.*

15               “(c) *CERTIFICATION.*—*A certification under the proce-*  
 16       *dures under this section shall—*

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

18                       “(2) *be executed by the Director of the Depart-*  
 19       *ment of Hawaiian Home Lands;*

20                       “(3) *specify that the Department of Hawaiian*  
 21       *Home Lands has fully carried out its responsibilities*  
 22       *as described under subsection (a); and*

23                       “(4) *specify that the Director—*

24                               “(A) *consents to assume the status of a re-*  
 25       *sponsible Federal official under the National En-*

1            *vironmental Policy Act of 1969 (42 U.S.C. 4321*  
 2            *et seq.) and each provision of law specified in*  
 3            *regulations issued by the Secretary to the extent*  
 4            *that those laws apply by reason of subsection (a);*  
 5            *and*

6            *“(B) is authorized and consents on behalf of*  
 7            *the Department of Hawaiian Home Lands and*  
 8            *the Director accepts the jurisdiction of the Fed-*  
 9            *eral courts for the purpose of enforcement of the*  
 10           *responsibilities of the Director of the Department*  
 11           *of Hawaiian Home Lands as such an official.*

12    **“SEC. 807. REGULATIONS.**

13            *“The Secretary shall issue final regulations necessary*  
 14           *to carry out this title not later than June 1, 1999.*

15    **“SEC. 808. EFFECTIVE DATE.**

16            *“Except as otherwise expressly provided in this title,*  
 17           *this title shall take effect on June 1, 1999.*

18    **“SEC. 809. AFFORDABLE HOUSING ACTIVITIES.**

19            *“(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMI-*  
 20           *LIES.—*

21            *“(1) PRIMARY OBJECTIVE.—The national objec-*  
 22           *tives of this title are—*

23            *“(A) to assist and promote affordable hous-*  
 24           *ing activities to develop, maintain, and operate*  
 25           *affordable housing in safe and healthy environ-*

1           *ments for occupancy by low-income Native Ha-*  
 2           *waiian families;*

3           “(B) *to ensure better access to private mort-*  
 4           *gage markets and to promote self-sufficiency of*  
 5           *low-income Native Hawaiian families;*

6           “(C) *to coordinate activities to provide*  
 7           *housing for low-income Native Hawaiian fami-*  
 8           *lies with Federal, State and local activities to*  
 9           *further economic and community development;*

10          “(D) *to plan for and integrate infrastruc-*  
 11          *ture resources on the Hawaiian Home Lands*  
 12          *with housing development; and*

13          “(E) *to—*

14                 “(i) *promote the development of private*  
 15                 *capital markets; and*

16                 “(ii) *allow the markets referred to in*  
 17                 *clause (i) to operate and grow, thereby bene-*  
 18                 *fitting Native Hawaiian communities.*

19          “(2) *ELIGIBLE FAMILIES.—*

20                 “(A) *IN GENERAL.—Except as provided*  
 21                 *under subparagraph (B), assistance for eligible*  
 22                 *housing activities under this title shall be limited*  
 23                 *to low-income Native Hawaiian families.*

24                 “(B) *EXCEPTION TO LOW-INCOME REQUIRE-*  
 25                 *MENT.—*

1           “(i) *IN GENERAL.*—*The Director may*  
2           *provide assistance for homeownership ac-*  
3           *tivities under—*

4                     “(I) *section 810(b);*

5                     “(II) *model activities under sec-*  
6           *tion 810(f); or*

7                     “(III) *loan guarantee activities*  
8           *under section 184A of the Housing and*  
9           *Community Development Act of 1992*  
10           *to Native Hawaiian families who are*  
11           *not low-income families, to the extent*  
12           *that the Secretary approves the activi-*  
13           *ties under that section to address a*  
14           *need for housing for those families that*  
15           *cannot be reasonably met without that*  
16           *assistance.*

17           “(ii) *LIMITATIONS.*—*The Secretary*  
18           *shall establish limitations on the amount of*  
19           *assistance that may be provided under this*  
20           *title for activities for families that are not*  
21           *low-income families.*

22           “(C) *OTHER FAMILIES.*—*Notwithstanding*  
23           *paragraph (1), the Director may provide housing*  
24           *or housing assistance provided through affordable*  
25           *housing activities assisted with grant amounts*



1           *under this title to a family that is not composed*  
2           *of Native Hawaiians if—*

3                   “(i) *the Department determines that*  
4                   *the presence of the family in the housing in-*  
5                   *volved is essential to the well-being of Na-*  
6                   *tive Hawaiian families; and*

7                   “(ii) *the need for housing for the fam-*  
8                   *ily cannot be reasonably met without the*  
9                   *assistance.*

10           “(D) *PREFERENCE.—*

11                   “(i) *IN GENERAL.—A housing plan*  
12                   *submitted under section 803 may authorize*  
13                   *a preference, for housing or housing assist-*  
14                   *ance provided through affordable housing*  
15                   *activities assisted with grant amounts pro-*  
16                   *vided under this title to be provided, to the*  
17                   *extent practicable, to families that are eligi-*  
18                   *ble to reside on the Hawaiian Home Lands.*

19                   “(ii) *APPLICATION.—In any case in*  
20                   *which a housing plan provides for pref-*  
21                   *erence described in clause (i), the Director*  
22                   *shall ensure that housing activities that are*  
23                   *assisted with grant amounts under this title*  
24                   *are subject to that preference.*

1           “(E) *USE OF NONPROFIT ORGANIZA-*  
 2           *TIONS.—As a condition of receiving grant*  
 3           *amounts under this title, the Department of Ha-*  
 4           *waiian Home Lands, shall to the extent prac-*  
 5           *ticable, provide for private nonprofit organiza-*  
 6           *tions experienced in the planning and develop-*  
 7           *ment of affordable housing for Native Hawaiians*  
 8           *to carry out affordable housing activities with*  
 9           *those grant amounts.*

10 **“SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.**

11           “(a) *IN GENERAL.—Affordable housing activities*  
 12           *under this section are activities conducted in accordance*  
 13           *with the requirements of section 811 to—*

14                   “(1) *develop or to support affordable housing for*  
 15                   *rental or homeownership; or*

16                   “(2) *provide housing services with respect to af-*  
 17                   *fordable housing, through the activities described in*  
 18                   *subsection (b).*

19           “(b) *ACTIVITIES.—The activities described in this sub-*  
 20           *section are the following:*

21                   “(1) *DEVELOPMENT.—The acquisition, new con-*  
 22                   *struction, reconstruction, or moderate or substantial*  
 23                   *rehabilitation of affordable housing, which may in-*  
 24                   *clude—*

25                           “(A) *real property acquisition;*

1                   “(B) site improvement;

2                   “(C) the development of utilities and utility  
3 services;

4                   “(D) conversion;

5                   “(E) demolition;

6                   “(F) financing;

7                   “(G) administration and planning; and

8                   “(H) other related activities.

9                   “(2) HOUSING SERVICES.—The provision of  
10 housing-related services for affordable housing, includ-  
11 ing—

12                   “(A) housing counseling in connection with  
13 rental or homeownership assistance;

14                   “(B) the establishment and support of resi-  
15 dent organizations and resident management  
16 corporations;

17                   “(C) energy auditing;

18                   “(D) activities related to the provision of  
19 self-sufficiency and other services; and

20                   “(E) other services related to assisting own-  
21 ers, tenants, contractors, and other entities par-  
22 ticipating or seeking to participate in other  
23 housing activities assisted pursuant to this sec-  
24 tion.

1           “(3) *HOUSING MANAGEMENT SERVICES.*—*The*  
2           *provision of management services for affordable hous-*  
3           *ing, including—*

4                   “(A) *the preparation of work specifications;*

5                   “(B) *loan processing;*

6                   “(C) *inspections;*

7                   “(D) *tenant selection;*

8                   “(E) *management of tenant-based rental as-*  
9                   *sistance; and*

10                  “(F) *management of affordable housing*  
11                  *projects.*

12           “(4) *CRIME PREVENTION AND SAFETY ACTIVI-*  
13           *TIES.*—*The provision of safety, security, and law en-*  
14           *forcement measures and activities appropriate to pro-*  
15           *tect residents of affordable housing from crime.*

16           “(5) *MODEL ACTIVITIES.*—*Housing activities*  
17           *under model programs that are—*

18                   “(A) *designed to carry out the purposes of*  
19                   *this title; and*

20                   “(B) *specifically approved by the Secretary*  
21                   *as appropriate for the purpose referred to in sub-*  
22                   *paragraph (A).*

23   **“SEC. 811. PROGRAM REQUIREMENTS.**

24           “(a) *RENTS.*—

1           “(1) *ESTABLISHMENT.*—Subject to paragraph  
2           (2), as a condition to receiving grant amounts under  
3           this title, the Director shall develop written policies  
4           governing rents and homebuyer payments charged for  
5           dwelling units assisted under this title, including  
6           methods by which such rents and homebuyer pay-  
7           ments are determined.

8           “(2) *MAXIMUM RENT.*—In the case of any low-  
9           income family residing in a dwelling unit assisted  
10          with grant amounts under this title, the monthly rent  
11          or homebuyer payment (as applicable) for that dwell-  
12          ing unit may not exceed 30 percent of the monthly  
13          adjusted income of that family.

14          “(b) *MAINTENANCE AND EFFICIENT OPERATION.*—

15               “(1) *IN GENERAL.*—The Director shall, using  
16               amounts of any grants received under this title, re-  
17               serve and use for operating under section 810 such  
18               amounts as may be necessary to provide for the con-  
19               tinued maintenance and efficient operation of such  
20               housing.

21               “(2) *DISPOSAL OF CERTAIN HOUSING.*—This  
22               subsection may not be construed to prevent the Direc-  
23               tor, or any entity funded by the Department, from de-  
24               molishing or disposing of housing, pursuant to regu-  
25               lations established by the Secretary.

1       “(c) *INSURANCE COVERAGE.*—As a condition to receiv-  
 2   ing grant amounts under this title, the Director shall re-  
 3   quire adequate insurance coverage for housing units that  
 4   are owned or operated or assisted with grant amounts pro-  
 5   vided under this title.

6       “(d) *ELIGIBILITY FOR ADMISSION.*—As a condition to  
 7   receiving grant amounts under this title, the Director shall  
 8   develop written policies governing the eligibility, admission,  
 9   and occupancy of families for housing assisted with grant  
 10   amounts provided under this title.

11       “(e) *MANAGEMENT AND MAINTENANCE.*—As a condi-  
 12   tion to receiving grant amounts under this title, the Direc-  
 13   tor shall develop policies governing the management and  
 14   maintenance of housing assisted with grant amounts under  
 15   this title.

16   **“SEC. 812. TYPES OF INVESTMENTS.**

17       “(a) *IN GENERAL.*—Subject to section 811 and an ap-  
 18   plicable housing plan approved under section 803, the Di-  
 19   rector shall have—

20               “(1) the discretion to use grant amounts for af-  
 21   fordable housing activities through the use of—

22                       “(A) equity investments;

23                       “(B) interest-bearing loans or advances;

24                       “(C) noninterest-bearing loans or advances;

25                       “(D) interest subsidies;

1           “(E) *the leveraging of private investments;*

2           *or*

3           “(F) *any other form of assistance that the*  
4           *Secretary determines to be consistent with the*  
5           *purposes of this title; and*

6           “(2) *the right to establish the terms of assistance*  
7           *provided with funds referred to in paragraph (1).*

8           “(b) *INVESTMENTS.—The Director of the Department*  
9           *of Hawaiian Home Lands may invest grant amounts for*  
10           *the purposes of carrying out affordable housing activities*  
11           *in investment securities and other obligations, as approved*  
12           *by the Secretary.*

13           **“SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TAR-**  
14           **GETING.**

15           “(a) *IN GENERAL.—Housing shall qualify for afford-*  
16           *able housing for purposes of this title only if—*

17           “(1) *each dwelling unit in the housing—*

18           “(A) *in the case of rental housing, is made*  
19           *available for occupancy only by a family that is*  
20           *a low-income family at the time of the initial oc-*  
21           *cupancy of that family of that unit; and*

22           “(B) *in the case of housing for homeownership,*  
23           *is made available for purchase only by a*  
24           *family that is a low-income family at the time*  
25           *of purchase; and*

1           “(2) each dwelling unit in the housing will re-  
2           main affordable, according to binding commitments  
3           satisfactory to the Secretary, for—

4                   “(A) the remaining useful life of the prop-  
5                   erty (as determined by the Secretary) without re-  
6                   gard to the term of the mortgage or to transfer  
7                   of ownership; or

8                   “(B) such other period as the Secretary de-  
9                   termines is the longest feasible period of time  
10                  consistent with sound economics and the pur-  
11                  poses of this title, except upon a foreclosure by  
12                  a lender (or upon other transfer in lieu of fore-  
13                  closure) if that action—

14                   “(i) recognizes any contractual or legal  
15                   rights of any public agency, nonprofit spon-  
16                   sor, or other person or entity to take an ac-  
17                   tion that would—

18                   “(I) avoid termination of low-in-  
19                   come affordability, in the case of fore-  
20                   closure; or

21                   “(II) transfer ownership in lieu of  
22                   foreclosure; and

23                   “(ii) is not for the purpose of avoiding  
24                   low-income affordability restrictions, as de-  
25                   termined by the Secretary.



1       “(b) *EXCEPTION.*—Notwithstanding subsection (a),  
2 *housing assisted pursuant to section 809(a)(2)(B) shall be*  
3 *considered affordable housing for purposes of this title.*

4       “**SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.**

5       “(a) *LEASES.*—Except to the extent otherwise provided  
6 *by or inconsistent with the laws of the State of Hawaii,*  
7 *in renting dwelling units in affordable housing assisted*  
8 *with grant amounts provided under this title, the Director,*  
9 *owner, or manager shall use leases that—*

10           “(1) *do not contain unreasonable terms and con-*  
11 *ditions;*

12           “(2) *require the Director, owner, or manager to*  
13 *maintain the housing in compliance with applicable*  
14 *housing codes and quality standards;*

15           “(3) *require the Director, owner, or manager to*  
16 *give adequate written notice of termination of the*  
17 *lease, which shall be the period of time required under*  
18 *applicable State or local law;*

19           “(4) *specify that, with respect to any notice of*  
20 *eviction or termination, notwithstanding any State or*  
21 *local law, a resident shall be informed of the oppor-*  
22 *tunity, before any hearing or trial, to examine any*  
23 *relevant documents, record, or regulations directly re-*  
24 *lated to the eviction or termination;*

1           “(5) require that the Director, owner, or man-  
2           ager may not terminate the tenancy, during the term  
3           of the lease, except for serious or repeated violation of  
4           the terms and conditions of the lease, violation of ap-  
5           plicable Federal, State, or local law, or for other good  
6           cause; and

7           “(6) provide that the Director, owner, and man-  
8           ager may terminate the tenancy of a resident for any  
9           activity, engaged in by the resident, any member of  
10          the household of the resident, or any guest or other  
11          person under the control of the resident, that—

12                 “(A) threatens the health or safety of, or  
13                 right to peaceful enjoyment of the premises by,  
14                 other residents or employees of the Department,  
15                 owner, or manager;

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

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

22          “(b) *TENANT OR HOMEBUYER SELECTION.*—As a con-  
23          dition to receiving grant amounts under this title, the Di-  
24          rector shall adopt and use written tenant and homebuyer  
25          selection policies and criteria that—

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

3           “(2) are reasonably related to program eligibility  
4           and the ability of the applicant to perform the obliga-  
5           tions of the lease; and

6           “(3) provide for—

7                   “(A) the selection of tenants and home-  
8                   buyers from a written waiting list in accordance  
9                   with the policies and goals set forth in an appli-  
10                  cable housing plan approved under section 803;  
11                  and

12                   “(B) the prompt notification in writing to  
13                   any rejected applicant of the grounds for that re-  
14                  jection.

15   **“SEC. 815. REPAYMENT.**

16           *“If the Department of Hawaiian Home Lands uses*  
17           *grant amounts to provide affordable housing under activi-*  
18           *ties under this title and, at any time during the useful life*  
19           *of the housing, the housing does not comply with the re-*  
20           *quirement under section 813(a)(2), the Secretary shall—*

21                   *“(1) reduce future grant payments on behalf of*  
22                   *the Department by an amount equal to the grant*  
23                   *amounts used for that housing (under the authority*  
24                   *of section 818(a)(1)(B)); or*

1           “(2) require repayment to the Secretary of any  
2           amount equal to those grant amounts.

3   **“SEC. 816. ANNUAL ALLOCATION.**

4           “*For each fiscal year, the Secretary shall allocate any*  
5 *amounts made available for assistance under this title for*  
6 *the fiscal year, in accordance with the formula established*  
7 *pursuant to section 817 to the Department of Hawaiian*  
8 *Home Lands if the Department complies with the require-*  
9 *ments under this title for a grant under this title.*

10 **“SEC. 817. ALLOCATION FORMULA.**

11           “(a) *ESTABLISHMENT.*—*The Secretary shall, by regu-*  
12 *lation issued not later than the expiration of the 6-month*  
13 *period beginning on the date of enactment of the Native*  
14 *American Housing Assistance and Self-Determination*  
15 *Amendments of 1998, in the manner provided under section*  
16 *807, establish a formula to provide for the allocation of*  
17 *amounts available for a fiscal year for block grants under*  
18 *this title in accordance with the requirements of this section.*

19           “(b) *FACTORS FOR DETERMINATION OF NEED.*—*The*  
20 *formula under subsection (a) shall be based on factors that*  
21 *reflect the needs for assistance for affordable housing activi-*  
22 *ties, including—*

23           “(1) *the number of low-income dwelling units*  
24 *owned or operated at the time pursuant to a contract*  
25 *between the Director and the Secretary;*

1           “(2) *the extent of poverty and economic distress*  
2           *and the number of Native Hawaiian families eligible*  
3           *to reside on the Hawaiian Home Lands; and*

4           “(3) *any other objectively measurable conditions*  
5           *that the Secretary and the Director may specify.*

6           “(c) *OTHER FACTORS FOR CONSIDERATION.—In es-*  
7           *tablishing the formula under subsection (a), the Secretary*  
8           *shall consider the relative administrative capacities of the*  
9           *Department of Hawaiian Home Lands and other challenges*  
10          *faced by the Department, including—*

11           “(1) *geographic distribution within Hawaiian*  
12          *Home Lands; and*

13           “(2) *technical capacity.*

14          “(d) *EFFECTIVE DATE.—This section shall take effect*  
15          *on the date of enactment of the Native American Housing*  
16          *Assistance and Self-Determination Amendments of 1998.*

17          “**SEC. 818. REMEDIES FOR NONCOMPLIANCE.**

18          “(a) *ACTIONS BY SECRETARY AFFECTING GRANT*  
19          *AMOUNTS.—*

20           “(1) *IN GENERAL.—Except as provided in sub-*  
21          *section (b), if the Secretary finds after reasonable no-*  
22          *tice and opportunity for a hearing that the Depart-*  
23          *ment of Hawaiian Home Lands has failed to comply*  
24          *substantially with any provision of this title, the Sec-*  
25          *retary shall—*

1           “(A) terminate payments under this title to  
2           the Department;

3           “(B) reduce payments under this title to the  
4           Department by an amount equal to the amount  
5           of such payments that were not expended in ac-  
6           cordance with this title; or

7           “(C) limit the availability of payments  
8           under this title to programs, projects, or activi-  
9           ties not affected by such failure to comply.

10          “(2) ACTIONS.—If the Secretary takes an action  
11          under subparagraph (A), (B), or (C) of paragraph  
12          (1), the Secretary shall continue that action until the  
13          Secretary determines that the failure by the Depart-  
14          ment to comply with the provision has been remedied  
15          by the Department and the Department is in compli-  
16          ance with that provision.

17          “(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL IN-  
18          CAPACITY.—The Secretary may provide technical assistance  
19          for the Department, either directly or indirectly, that is de-  
20          signed to increase the capability and capacity of the Direc-  
21          tor of the Department to administer assistance provided  
22          under this title in compliance with the requirements under  
23          this title if the Secretary makes a finding under subsection  
24          (a), but determines that the failure of the Department to  
25          comply substantially with the provisions of this title—

1           “(1) is not a pattern or practice of activities  
2           constituting willful noncompliance; and

3           “(2) is a result of the limited capability or ca-  
4           pacity of the Department of Hawaiian Home Lands.

5           “(c) REFERRAL FOR CIVIL ACTION.—

6           “(1) AUTHORITY.—In lieu of, or in addition to,  
7           any action that the Secretary may take under sub-  
8           section (a), if the Secretary has reason to believe that  
9           the Department of Hawaiian Home Lands has failed  
10          to comply substantially with any provision of this  
11          title, the Secretary may refer the matter to the Attor-  
12          ney General of the United States with a recommenda-  
13          tion that an appropriate civil action be instituted.

14          “(2) CIVIL ACTION.—Upon receiving a referral  
15          under paragraph (1), the Attorney General may bring  
16          a civil action in any United States district court of  
17          appropriate jurisdiction for such relief as may be ap-  
18          propriate, including an action—

19                  “(A) to recover the amount of the assistance  
20                  furnished under this title that was not expended  
21                  in accordance with this title; or

22                  “(B) for mandatory or injunctive relief.

23          “(d) REVIEW.—

24          “(1) IN GENERAL.—If the Director receives no-  
25          tice under subsection (a) of the termination, reduc-

1        *tion, or limitation of payments under this Act, the*  
2        *Director—*

3                *“(A) may, not later than 60 days after re-*  
4                *ceiving such notice, file with the United States*  
5                *Court of Appeals for the Ninth Circuit, or in the*  
6                *United States Court of Appeals for the District*  
7                *of Columbia, a petition for review of the action*  
8                *of the Secretary; and*

9                *“(B) upon the filing of any petition under*  
10                *subparagraph (A), shall forthwith transmit cop-*  
11                *ies of the petition to the Secretary and the Attor-*  
12                *ney General of the United States, who shall rep-*  
13                *resent the Secretary in the litigation.*

14        *“(2) PROCEDURE.—*

15                *“(A) IN GENERAL.—The Secretary shall file*  
16                *in the court a record of the proceeding on which*  
17                *the Secretary based the action, as provided in*  
18                *section 2112 of title 28, United States Code.*

19                *“(B) OBJECTIONS.—No objection to the ac-*  
20                *tion of the Secretary shall be considered by the*  
21                *court unless the Department has registered the*  
22                *objection before the Secretary.*

23        *“(3) DISPOSITION.—*

24                *“(A) COURT PROCEEDINGS.—*



1           “(i) *JURISDICTION OF COURT.*—*The*  
2           *court shall have jurisdiction to affirm or*  
3           *modify the action of the Secretary or to set*  
4           *the action aside in whole or in part.*

5           “(ii) *FINDINGS OF FACT.*—*If supported*  
6           *by substantial evidence on the record con-*  
7           *sidered as a whole, the findings of fact by*  
8           *the Secretary shall be conclusive.*

9           “(iii) *ADDITION.*—*The court may*  
10          *order evidence, in addition to the evidence*  
11          *submitted for review under this subsection,*  
12          *to be taken by the Secretary, and to be*  
13          *made part of the record.*

14          “(B) *SECRETARY.*—

15               “(i) *IN GENERAL.*—*The Secretary, by*  
16               *reason of the additional evidence referred to*  
17               *in subparagraph (A) and filed with the*  
18               *court—*

19                       “(I) *may—*

20                               “(aa) *modify the findings of*  
21                               *fact of the Secretary; or*

22                               “(bb) *make new findings;*  
23                               *and*

24                               “(II) *shall file—*

1                   “(aa) such modified or new  
2                   findings; and

3                   “(bb) the recommendation of  
4                   the Secretary, if any, for the  
5                   modification or setting aside of  
6                   the original action of the Sec-  
7                   retary.

8                   “(ii) FINDINGS.—The findings referred  
9                   to in clause (i)(II)(bb) shall, with respect to  
10                  a question of fact, be considered to be con-  
11                  clusive if those findings are—

12                  “(I) supported by substantial evi-  
13                  dence on the record; and

14                  “(II) considered as a whole.

15                  “(4) FINALITY.—

16                  “(A) IN GENERAL.—Except as provided in  
17                  subparagraph (B), upon the filing of the record  
18                  under this subsection with the court—

19                  “(i) the jurisdiction of the court shall  
20                  be exclusive; and

21                  “(ii) the judgment of the court shall be  
22                  final.

23                  “(B) REVIEW BY SUPREME COURT.—A  
24                  judgment under subparagraph (A) shall be sub-  
25                  ject to review by the Supreme Court of the

1           *United States upon writ of certiorari or certifi-*  
2           *cation, as provided in section 1254 of title 28,*  
3           *United States Code.*

4   **“SEC. 819. MONITORING OF COMPLIANCE.**

5           “(a) *ENFORCEABLE AGREEMENTS.*—

6           “(1) *IN GENERAL.*—*The Director, through bind-*  
7           *ing contractual agreements with owners or other au-*  
8           *thorized entities, shall ensure long-term compliance*  
9           *with the provisions of this title.*

10           “(2) *MEASURES.*—*The measures referred to in*  
11           *paragraph (1) shall provide for—*

12           “(A) *to the extent allowable by Federal and*  
13           *State law, the enforcement of the provisions of*  
14           *this title by the Department and the Secretary;*  
15           *and*

16           “(B) *remedies for breach of the provisions*  
17           *referred to in paragraph (1).*

18           “(b) *PERIODIC MONITORING.*—

19           “(1) *IN GENERAL.*—*Not less frequently than an-*  
20           *nually, the Director shall review the activities con-*  
21           *ducted and housing assisted under this title to assess*  
22           *compliance with the requirements of this title.*

23           “(2) *REVIEW.*—*Each review under paragraph*  
24           *(1) shall include onsite inspection of housing to deter-*  
25           *mine compliance with applicable requirements.*

1           “(3) *RESULTS.*—*The results of each review under*  
2           *paragraph (1) shall be—*

3                   “(A) *included in a performance report of*  
4                   *the Director submitted to the Secretary under*  
5                   *section 820; and*

6                   “(B) *made available to the public.*

7           “(c) *PERFORMANCE MEASURES.*—*The Secretary shall*  
8           *establish such performance measures as may be necessary*  
9           *to assess compliance with the requirements of this title.*

10   **“SEC. 820. PERFORMANCE REPORTS.**

11           “(a) *REQUIREMENT.*—*For each fiscal year, the Direc-*  
12           *tor shall—*

13                   “(1) *review the progress the Department has*  
14                   *made during that fiscal year in carrying out the*  
15                   *housing plan submitted by the Department under sec-*  
16                   *tion 803; and*

17                   “(2) *submit a report to the Secretary (in a form*  
18                   *acceptable to the Secretary) describing the conclusions*  
19                   *of the review.*

20           “(b) *CONTENT.*—*Each report submitted under this sec-*  
21           *tion for a fiscal year shall—*

22                   “(1) *describe the use of grant amounts provided*  
23                   *to the Department of Hawaiian Home Lands for that*  
24                   *fiscal year;*

1           “(2) assess the relationship of the use referred to  
2           in paragraph (1) to the goals identified in the hous-  
3           ing plan;

4           “(3) indicate the programmatic accomplishments  
5           of the Department; and

6           “(4) describe the manner in which the Depart-  
7           ment would change its housing plan submitted under  
8           section 803 as a result of its experiences.

9           “(c) SUBMISSIONS.—The Secretary shall—

10           “(1) establish a date for submission of each re-  
11           port under this section;

12           “(2) review each such report; and

13           “(3) with respect to each such report, make rec-  
14           ommendations as the Secretary considers appropriate  
15           to carry out the purposes of this title.

16           “(d) PUBLIC AVAILABILITY.—

17           “(1) COMMENTS BY BENEFICIARIES.—In prepar-  
18           ing a report under this section, the Director shall  
19           make the report publicly available to the beneficiaries  
20           of the Hawaiian Homes Commission Act, 1920 (42  
21           Stat. 108 et seq.) and give a sufficient amount of time  
22           to permit those beneficiaries to comment on that re-  
23           port before it is submitted to the Secretary (in such  
24           manner and at such time as the Director may deter-  
25           mine).

1           “(2) *SUMMARY OF COMMENTS.*—*The report shall*  
2           *include a summary of any comments received by the*  
3           *Director from beneficiaries under paragraph (1) re-*  
4           *garding the program to carry out the housing plan.*

5   **“SEC. 821. REVIEW AND AUDIT BY SECRETARY.**

6           “(a) *ANNUAL REVIEW.*—

7           “(1) *IN GENERAL.*—*The Secretary shall, not less*  
8           *frequently than on an annual basis, make such re-*  
9           *views and audits as may be necessary or appropriate*  
10          *to determine whether—*

11                   “(A) *the Director has—*

12                           “(i) *carried out eligible activities*  
13                           *under this title in a timely manner;*

14                           “(ii) *carried out and made certifi-*  
15                           *cations in accordance with the requirements*  
16                           *and the primary objectives of this title and*  
17                           *with other applicable laws; and*

18                           “(iii) *a continuing capacity to carry*  
19                           *out the eligible activities in a timely man-*  
20                           *ner;*

21                   “(B) *the Director has complied with the*  
22                   *housing plan submitted by the Director under*  
23                   *section 803; and*

24                   “(C) *the performance reports of the Depart-*  
25                   *ment under section 821 are accurate.*

1           “(2) *ONSITE VISITS.*—*Each review conducted*  
2           *under this section shall, to the extent practicable, in-*  
3           *clude onsite visits by employees of the Department of*  
4           *Housing and Urban Development.*

5           “(b) *REPORT BY SECRETARY.*—*The Secretary shall*  
6           *give the Department of Hawaiian Home Lands not less*  
7           *than 30 days to review and comment on a report under*  
8           *this subsection. After taking into consideration the com-*  
9           *ments of the Department, the Secretary may revise the re-*  
10          *port and shall make the comments of the Department and*  
11          *the report with any revisions, readily available to the public*  
12          *not later than 30 days after receipt of the comments of the*  
13          *Department.*

14          “(c) *EFFECT OF REVIEWS.*—*The Secretary may make*  
15          *appropriate adjustments in the amount of annual grants*  
16          *under this title in accordance with the findings of the Sec-*  
17          *retary pursuant to reviews and audits under this section.*  
18          *The Secretary may adjust, reduce, or withdraw grant*  
19          *amounts, or take other action as appropriate in accordance*  
20          *with the reviews and audits of the Secretary under this sec-*  
21          *tion, except that grant amounts already expended on afford-*  
22          *able housing activities may not be recaptured or deducted*  
23          *from future assistance provided to the Department of Ha-*  
24          *waiian Home Lands.*

1 **“SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.**

2       *“To the extent that the financial transactions of the*  
3 *Department of Hawaiian Home Lands involving grant*  
4 *amounts under this title relate to amounts provided under*  
5 *this title, those transactions may be audited by the Comp-*  
6 *troller General of the United States under such regulations*  
7 *as may be prescribed by the Comptroller General. The*  
8 *Comptroller General of the United States shall have access*  
9 *to all books, accounts, records, reports, files, and other pa-*  
10 *pers, things, or property belonging to or in use by the De-*  
11 *partment of Hawaiian Home Lands pertaining to such fi-*  
12 *ncial transactions and necessary to facilitate the audit.*

13 **“SEC. 823. REPORTS TO CONGRESS.**

14       *“(a) IN GENERAL.—Not later than 90 days after the*  
15 *conclusion of each fiscal year in which assistance under this*  
16 *title is made available, the Secretary shall submit to the*  
17 *Congress a report that contains—*

18             *“(1) a description of the progress made in ac-*  
19             *complishing the objectives of this title;*

20             *“(2) a summary of the use of funds available*  
21             *under this title during the preceding fiscal year; and*

22             *“(3) a description of the aggregate outstanding*  
23             *loan guarantees under section 184A of the Housing*  
24             *and Community Development Act of 1992.*

25       *“(b) RELATED REPORTS.—The Secretary may require*  
26 *the Director to submit to the Secretary such reports and*



1 *other information as may be necessary in order for the Sec-*  
 2 *retary to prepare the report required under subsection (a).*

3 **“SEC. 824. AUTHORIZATION OF APPROPRIATIONS.**

4 *“There are authorized to be appropriated to the De-*  
 5 *partment of Housing and Urban Development for grants*  
 6 *under this title such sums as may be necessary for each*  
 7 *of fiscal years 1999, 2000, 2001, 2002 and 2003.”.*

8 **SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUS-**  
 9 **ING.**

10 *Subtitle E of title I of the Housing and Community*  
 11 *Development Act of 1992 is amended by inserting after sec-*  
 12 *tion 184 (12 U.S.C. 1715z–13a) the following:*

13 **“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN**  
 14 **HOUSING.**

15 *“(a) DEFINITIONS.—In this section:*

16 *“(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—*  
 17 *The term ‘Department of Hawaiian Home Lands’*  
 18 *means the agency or department of the government of*  
 19 *the State of Hawaii that is responsible for the admin-*  
 20 *istration of the Hawaiian Homes Commission Act,*  
 21 *1920 (42 Stat. 108 set seq.).*

22 *“(2) ELIGIBLE ENTITY.—The term ‘eligible en-*  
 23 *tity’ means a Native Hawaiian family, the Depart-*  
 24 *ment of Hawaiian Home Lands, the Office of Hawai-*  
 25 *ian Affairs, or private nonprofit or for-profit organi-*

1        *zations experienced in the planning and development*  
 2        *of affordable housing for Native Hawaiians.*

3            “(3) *FAMILY*.—*The term ‘family’ means 1 or*  
 4        *more persons maintaining a household, as the Sec-*  
 5        *retary shall by regulation provide.*

6            “(4) *GUARANTEE FUND*.—*The term ‘Guarantee*  
 7        *Fund’ means the Native Hawaiian Housing Loan*  
 8        *Guarantee Fund established under subsection (i) of*  
 9        *this section.*

10          “(5) *HAWAIIAN HOME LANDS*.—*The term ‘Ha-*  
 11        *waiian Home Lands’ means lands that—*

12            “(A) *have the status of Hawaiian Home*  
 13        *Lands under section 204 of the Hawaiian Homes*  
 14        *Commission Act (42 Stat. 110); or*

15            “(B) *are acquired pursuant to that Act.*

16          “(6) *NATIVE HAWAIIAN*.—*The term ‘Native Ha-*  
 17        *waiian’ has the meaning given the term ‘native Ha-*  
 18        *waiian’ in section 201 of the Hawaiian Homes Com-*  
 19        *mission Act, 1920 (42 Stat. 108 et seq.).*

20          “(7) *OFFICE OF HAWAIIAN AFFAIRS*.—*The term*  
 21        *‘Office of Hawaiian Affairs’ means the entity of that*  
 22        *name established under the constitution of the State*  
 23        *of Hawaii.*

24          “(b) *AUTHORITY*.—*To provide access to sources of pri-*  
 25        *vate financing to Native Hawaiian families who otherwise*

1 *could not acquire housing financing because of the unique*  
2 *legal status of the Hawaiian Home Lands or as a result*  
3 *of a lack of access to private financial markets, the Sec-*  
4 *retary may guarantee an amount not to exceed 100 percent*  
5 *of the unpaid principal and interest that is due on an eligi-*  
6 *ble loan under subsection (b).*

7       “(c) *ELIGIBLE LOANS.—Under this section, a loan is*  
8 *an eligible loan if that loan meets the following require-*  
9 *ments:*

10           “(1) *ELIGIBLE BORROWERS.—The loan is made*  
11 *only to a borrower who—*

12                   “(A) *is a Native Hawaiian family;*

13                   “(B) *the Department of Hawaiian Home*  
14 *Lands;*

15                   “(C) *the Office of Hawaiian Affairs; or*

16                   “(D) *a private nonprofit organization expe-*  
17 *rienced in the planning and development of af-*  
18 *fordable housing for Native Hawaiians.*

19           “(2) *ELIGIBLE HOUSING.—*

20                   “(A) *IN GENERAL.—The loan will be used*  
21 *to construct, acquire, or rehabilitate not more*  
22 *than 4-family dwellings that are standard hous-*  
23 *ing and are located on Hawaiian Home Lands*  
24 *for which a housing plan described in subpara-*  
25 *graph (B) applies.*

1           “(B) *HOUSING PLAN.*—A housing plan de-  
2           scribed in this subparagraph is a housing plan  
3           that—

4                   “(i) has been submitted and approved  
5                   by the Secretary under section 803 of the  
6                   Native American Housing Assistance and  
7                   Self-Determination Amendments of 1998;  
8                   and

9                   “(ii) provides for the use of loan guar-  
10                  antees under this section to provide afford-  
11                  able homeownership housing on Hawaiian  
12                  Home Lands.

13           “(3) *SECURITY.*—The loan may be secured by  
14           any collateral authorized under applicable Federal  
15           law or State law.

16           “(4) *LENDERS.*—

17                   “(A) *IN GENERAL.*—The loan shall be made  
18                   only by a lender approved by, and meeting  
19                   qualifications established by, the Secretary, in-  
20                   cluding any lender described in subparagraph  
21                   (B), except that a loan otherwise insured or  
22                   guaranteed by an agency of the Federal Govern-  
23                   ment or made by the Department of Hawaiian  
24                   Home Lands from amounts borrowed from the

1           *United States shall not be eligible for a guaran-*  
2           *tee under this section.*

3           “(B) *APPROVAL.*—*The following lenders*  
4           *shall be considered to be lenders that have been*  
5           *approved by the Secretary:*

6                   “(i) *Any mortgagee approved by the*  
7                   *Secretary for participation in the single*  
8                   *family mortgage insurance program under*  
9                   *title II of the National Housing Act (12*  
10                  *U.S.C.A. 1707 et seq.).*

11                  “(ii) *Any lender that makes housing*  
12                  *loans under chapter 37 of title 38, United*  
13                  *States Code, that are automatically guaran-*  
14                  *teed under section 3702(d) of title 38,*  
15                  *United States Code.*

16                  “(iii) *Any lender approved by the Sec-*  
17                  *retary of Agriculture to make guaranteed*  
18                  *loans for single family housing under the*  
19                  *Housing Act of 1949 (42 U.S.C.A. 1441 et*  
20                  *seq.).*

21                  “(iv) *Any other lender that is super-*  
22                  *vised, approved, regulated, or insured by*  
23                  *any agency of the Federal Government.*

24           “(5) *TERMS.*—*The loan shall—*

1           “(A) be made for a term not exceeding 30  
2           years;

3           “(B) bear interest (exclusive of the guaran-  
4           tee fee under subsection (d) and service charges,  
5           if any) at a rate agreed upon by the borrower  
6           and the lender and determined by the Secretary  
7           to be reasonable, but not to exceed the rate gen-  
8           erally charged in the area (as determined by the  
9           Secretary) for home mortgage loans not guaran-  
10          teed or insured by any agency or instrumentality  
11          of the Federal Government;

12          “(C) involve a principal obligation not ex-  
13          ceeding—

14                 “(i) 97.75 percent of the appraised  
15                 value of the property as of the date the loan  
16                 is accepted for guarantee (or 98.75 percent  
17                 if the value of the property is \$50,000 or  
18                 less); or

19                 “(ii) the amount approved by the Sec-  
20                 retary under this section; and

21          “(D) involve a payment on account of the  
22          property—

23                 “(i) in cash or its equivalent; or

24                 “(ii) through the value of any improve-  
25                 ments to the property made through the

1                   *skilled or unskilled labor of the borrower, as*  
2                   *the Secretary shall provide.*

3           “(d) *CERTIFICATE OF GUARANTEE.—*

4                   “(1) *APPROVAL PROCESS.—*

5                           “(A) *IN GENERAL.—Before the Secretary*  
6                   *approves any loan for guarantee under this sec-*  
7                   *tion, the lender shall submit the application for*  
8                   *the loan to the Secretary for examination.*

9                           “(B) *APPROVAL.—If the Secretary approves*  
10                   *the application submitted under subparagraph*  
11                   *(A), the Secretary shall issue a certificate under*  
12                   *this subsection as evidence of the loan guarantee*  
13                   *approved.*

14                   “(2) *STANDARD FOR APPROVAL.—The Secretary*  
15                   *may approve a loan for guarantee under this section*  
16                   *and issue a certificate under this subsection only if*  
17                   *the Secretary determines that there is a reasonable*  
18                   *prospect of repayment of the loan.*

19                   “(3) *EFFECT.—*

20                           “(A) *IN GENERAL.—A certificate of guaran-*  
21                   *tee issued under this subsection by the Secretary*  
22                   *shall be conclusive evidence of the eligibility of*  
23                   *the loan for guarantee under this section and the*  
24                   *amount of that guarantee.*

1           “(B) *EVIDENCE.*—*The evidence referred to*  
2           *in subparagraph (A) shall be incontestable in the*  
3           *hands of the bearer.*

4           “(C) *FULL FAITH AND CREDIT.*—*The full*  
5           *faith and credit of the United States is pledged*  
6           *to the payment of all amounts agreed to be paid*  
7           *by the Secretary as security for the obligations*  
8           *made by the Secretary under this section.*

9           “(4) *FRAUD AND MISREPRESENTATION.*—*This*  
10          *subsection may not be construed—*

11           “(A) *to preclude the Secretary from estab-*  
12           *lishing defenses against the original lender based*  
13           *on fraud or material misrepresentation; or*

14           “(B) *to bar the Secretary from establishing*  
15           *by regulations that are on the date of issuance*  
16           *or disbursement, whichever is earlier, partial de-*  
17           *fenses to the amount payable on the guarantee.*

18          “(e) *GUARANTEE FEE.*—

19           “(1) *IN GENERAL.*—*The Secretary shall fix and*  
20           *collect a guarantee fee for the guarantee of a loan*  
21           *under this section, which may not exceed the amount*  
22           *equal to 1 percent of the principal obligation of the*  
23           *loan.*

24           “(2) *PAYMENT.*—*The fee under this subsection*  
25           *shall—*



1           “(A) be paid by the lender at time of  
2           issuance of the guarantee; and

3           “(B) be adequate, in the determination of  
4           the Secretary, to cover expenses and probable  
5           losses.

6           “(3) *DEPOSIT.*—The Secretary shall deposit any  
7           fees collected under this subsection in the Native Ha-  
8           waiian Housing Loan Guarantee Fund established  
9           under subsection (j).

10          “(f) *LIABILITY UNDER GUARANTEE.*—The liability  
11          under a guarantee provided under this section shall de-  
12          crease or increase on a pro rata basis according to any de-  
13          crease or increase in the amount of the unpaid obligation  
14          under the provisions of the loan agreement involved.

15          “(g) *TRANSFER AND ASSUMPTION.*—Notwithstanding  
16          any other provision of law, any loan guaranteed under this  
17          section, including the security given for the loan, may be  
18          sold or assigned by the lender to any financial institution  
19          subject to examination and supervision by an agency of the  
20          Federal Government or of any State or the District of Co-  
21          lumbia.

22          “(h) *DISQUALIFICATION OF LENDERS AND CIVIL*  
23          *MONEY PENALTIES.*—

24          “(1) *IN GENERAL.*—

1           “(A) *GROUNDS FOR ACTION.*—If the Sec-  
2           retary determines that any lender or holder of a  
3           guarantee certificate under subsection (c)—

4                   “(i) *has failed—*

5                           “(I) *to maintain adequate ac-*  
6                           *counting records;*

7                           “(II) *to service adequately loans*  
8                           *guaranteed under this section; or*

9                           “(III) *to exercise proper credit or*  
10                           *underwriting judgment; or*

11                           “(ii) *has engaged in practices other-*  
12                           *wise detrimental to the interest of a bor-*  
13                           *rower or the United States,*

14           *the Secretary may take action under subpara-*  
15           *graph (B).*

16           “(B) *ACTIONS.*—Upon a determination by  
17           the Secretary that a holder of a guarantee certifi-  
18           cate under subsection (c) has failed to carry out  
19           an activity described in subparagraph (A)(i) or  
20           has engaged in practices described in subpara-  
21           graph (A)(ii), the Secretary may—

22                           “(i) *refuse, either temporarily or per-*  
23                           *manently, to guarantee any further loans*  
24                           *made by such lender or holder;*

1           “(ii) bar such lender or holder from ac-  
2           quiring additional loans guaranteed under  
3           this section; and

4           “(iii) require that such lender or holder  
5           assume not less than 10 percent of any loss  
6           on further loans made or held by the lender  
7           or holder that are guaranteed under this  
8           section.

9           “(2) CIVIL MONEY PENALTIES FOR INTENTIONAL  
10          VIOLATIONS.—

11           “(A) IN GENERAL.—The Secretary may im-  
12           pose a civil monetary penalty on a lender or  
13           holder of a guarantee certificate under subsection  
14           (d) if the Secretary determines that the holder or  
15           lender has intentionally failed—

16           “(i) to maintain adequate accounting  
17           records;

18           “(ii) to adequately service loans guar-  
19           anteed under this section; or

20           “(iii) to exercise proper credit or un-  
21           derwriting judgment.

22           “(B) PENALTIES.—A civil monetary pen-  
23           alty imposed under this paragraph shall be im-  
24           posed in the manner and be in an amount pro-  
25           vided under section 536 of the National Housing

1           *Act (12 U.S.C.A. 1735f-1) with respect to mort-*  
2           *gagees and lenders under that Act.*

3           “(3) *PAYMENT ON LOANS MADE IN GOOD*  
4           *FAITH.—Notwithstanding paragraphs (1) and (2), if*  
5           *a loan was made in good faith, the Secretary may not*  
6           *refuse to pay a lender or holder of a valid guarantee*  
7           *on that loan, without regard to whether the lender or*  
8           *holder is barred under this subsection.*

9           “(i) *PAYMENT UNDER GUARANTEE.—*

10           “(1) *LENDER OPTIONS.—*

11           “(A) *IN GENERAL.—*

12           “(i) *NOTIFICATION.—If a borrower on*  
13           *a loan guaranteed under this section de-*  
14           *faults on the loan, the holder of the guaran-*  
15           *tee certificate shall provide written notice of*  
16           *the default to the Secretary.*

17           “(ii) *PAYMENT.—Upon providing the*  
18           *notice required under clause (i), the holder*  
19           *of the guarantee certificate shall be entitled*  
20           *to payment under the guarantee (subject to*  
21           *the provisions of this section) and may pro-*  
22           *ceed to obtain payment in 1 of the following*  
23           *manners:*

24           “(I) *FORECLOSURE.—*

1           “(aa) *IN GENERAL.*—*The*  
2 *holder of the certificate may initi-*  
3 *ate foreclosure proceedings (after*  
4 *providing written notice of that*  
5 *action to the Secretary).*

6           “(bb) *PAYMENT.*—*Upon a*  
7 *final order by the court authoriz-*  
8 *ing foreclosure and submission to*  
9 *the Secretary of a claim for pay-*  
10 *ment under the guarantee, the*  
11 *Secretary shall pay to the holder*  
12 *of the certificate the pro rata por-*  
13 *tion of the amount guaranteed (as*  
14 *determined pursuant to subsection*  
15 *(f)) plus reasonable fees and ex-*  
16 *penditures as approved by the Sec-*  
17 *retary.*

18           “(cc) *SUBROGATION.*—*The*  
19 *rights of the Secretary shall be*  
20 *subrogated to the rights of the*  
21 *holder of the guarantee. The hold-*  
22 *er shall assign the obligation and*  
23 *security to the Secretary.*

24           “(II) *NO FORECLOSURE.*—

1                   “(aa) *IN GENERAL.*—Without  
2                   *seeking foreclosure (or in any case*  
3                   *in which a foreclosure proceeding*  
4                   *initiated under clause (i) contin-*  
5                   *ues for a period in excess of 1*  
6                   *year), the holder of the guarantee*  
7                   *may submit to the Secretary a re-*  
8                   *quest to assign the obligation and*  
9                   *security interest to the Secretary*  
10                   *in return for payment of the*  
11                   *claim under the guarantee. The*  
12                   *Secretary may accept assignment*  
13                   *of the loan if the Secretary deter-*  
14                   *mines that the assignment is in*  
15                   *the best interest of the United*  
16                   *States.*

17                   “(bb) *PAYMENT.*—Upon as-  
18                   *signment, the Secretary shall pay*  
19                   *to the holder of the guarantee the*  
20                   *pro rata portion of the amount*  
21                   *guaranteed (as determined under*  
22                   *subsection (f)).*

23                   “(cc) *SUBROGATION.*—The  
24                   *rights of the Secretary shall be*  
25                   *subrogated to the rights of the*

1 holder of the guarantee. The hold-  
2 er shall assign the obligation and  
3 security to the Secretary.

4 “(B) *REQUIREMENTS.*—Before any pay-  
5 ment under a guarantee is made under subpara-  
6 graph (A), the holder of the guarantee shall ex-  
7 haust all reasonable possibilities of collection.  
8 Upon payment, in whole or in part, to the hold-  
9 er, the note or judgment evidencing the debt shall  
10 be assigned to the United States and the holder  
11 shall have no further claim against the borrower  
12 or the United States. The Secretary shall then  
13 take such action to collect as the Secretary deter-  
14 mines to be appropriate.

15 “(2) *LIMITATIONS ON LIQUIDATION.*—

16 “(A) *IN GENERAL.*—If a borrower defaults  
17 on a loan guaranteed under this section that in-  
18 volves a security interest in restricted Hawaiian  
19 Home Land property, the mortgagee or the Sec-  
20 retary shall only pursue liquidation after offer-  
21 ing to transfer the account to another eligible  
22 Hawaiian family or to the Department of Ha-  
23 waiian Home Lands.

24 “(B) *LIMITATION.*—If, after action is taken  
25 under subparagraph (A), the mortgagee or the

1            *Secretary subsequently proceeds to liquidate the*  
2            *account, the mortgagee or the Secretary shall not*  
3            *sell, transfer, or otherwise dispose of or alienate*  
4            *the property described in subparagraph (A) ex-*  
5            *cept to another eligible Hawaiian family or to*  
6            *the Department of Hawaiian Home Lands.*

7            *“(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—*

8            *“(1) ESTABLISHMENT.—There is established in*  
9            *the Treasury of the United States the Hawaiian*  
10           *Housing Loan Guarantee Fund for the purpose of*  
11           *providing loan guarantees under this section.*

12           *“(2) CREDITS.—The Guarantee Fund shall be*  
13           *credited with—*

14           *“(A) any amount, claims, notes, mortgages,*  
15           *contracts, and property acquired by the Sec-*  
16           *retary under this section, and any collections*  
17           *and proceeds therefrom;*

18           *“(B) any amounts appropriated pursuant*  
19           *to paragraph (7);*

20           *“(C) any guarantee fees collected under sub-*  
21           *section (d); and*

22           *“(D) any interest or earnings on amounts*  
23           *invested under paragraph (4).*



1           “(3) *USE.—Amounts in the Guarantee Fund*  
2           *shall be available, to the extent provided in appro-*  
3           *priations Acts, for—*

4                   “(A) *fulfilling any obligations of the Sec-*  
5                   *retary with respect to loans guaranteed under*  
6                   *this section, including the costs (as that term is*  
7                   *defined in section 502 of the Federal Credit Re-*  
8                   *form Act of 1990 (2 U.S.C. 661a)) of such loans;*

9                   “(B) *paying taxes, insurance, prior liens,*  
10                   *expenses necessary to make fiscal adjustment in*  
11                   *connection with the application and transmittal*  
12                   *of collections, and other expenses and advances to*  
13                   *protect the Secretary for loans which are guaran-*  
14                   *teed under this section or held by the Secretary;*

15                   “(C) *acquiring such security property at*  
16                   *foreclosure sales or otherwise;*

17                   “(D) *paying administrative expenses in*  
18                   *connection with this section; and*

19                   “(E) *reasonable and necessary costs of reha-*  
20                   *ilitation and repair to properties that the Sec-*  
21                   *retary holds or owns pursuant to this section.*

22           “(4) *INVESTMENT.—Any amounts in the Guar-*  
23           *antee Fund determined by the Secretary to be in ex-*  
24           *cess of amounts currently required at the time of the*

1 *determination to carry out this section may be in-*  
2 *vested in obligations of the United States.*

3 “(5) *LIMITATION ON COMMITMENTS TO GUARAN-*  
4 *TEE LOANS AND MORTGAGES.—*

5 “(A) *REQUIREMENT OF APPROPRIATIONS.—*

6 *The authority of the Secretary to enter into com-*  
7 *mitments to guarantee loans under this section*  
8 *shall be effective for any fiscal year to the extent,*  
9 *or in such amounts as, are or have been provided*  
10 *in appropriations Acts, without regard to the fis-*  
11 *cal year for which such amounts were appro-*  
12 *priated.*

13 “(B) *LIMITATIONS ON COSTS OF GUARAN-*  
14 *TEES.—The authority of the Secretary to enter*  
15 *into commitments to guarantee loans under this*  
16 *section shall be effective for any fiscal year only*  
17 *to the extent that amounts in the Guarantee*  
18 *Fund are or have been made available in appro-*  
19 *priations Acts to cover the costs (as that term is*  
20 *defined in section 502 of the Federal Credit Re-*  
21 *form Act of 1990 (2 U.S.C. 661a)) of such loan*  
22 *guarantees for such fiscal year. Any amounts ap-*  
23 *propriated pursuant to this subparagraph shall*  
24 *remain available until expended.*

1           “(C) *LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.*—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 1999, 2000, 2001, 2002, and 2003 with an aggregate outstanding principal amount not exceeding \$100,000,000 for each such fiscal year.

9           “(6) *LIABILITIES.*—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

13           “(7) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

18           “(k) *REQUIREMENTS FOR STANDARD HOUSING.*—

19           “(1) *IN GENERAL.*—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

22           “(2) *STANDARDS.*—The standards referred to in paragraph (1) shall—

24           “(A) provide sufficient flexibility to permit  
25           the use of various designs and materials in hous-

1            *ing acquired with loans guaranteed under this*  
2            *section; and*

3            *“(B) require each dwelling unit in any*  
4            *housing acquired in the manner described in*  
5            *subparagraph (A) to—*

6            *“(i) be decent, safe, sanitary, and mod-*  
7            *est in size and design;*

8            *“(ii) conform with applicable general*  
9            *construction standards for the region in*  
10           *which the housing is located;*

11           *“(iii) contain a plumbing system*  
12           *that—*

13           *“(I) uses a properly installed sys-*  
14           *tem of piping;*

15           *“(II) includes a kitchen sink and*  
16           *a partitional bathroom with lavatory,*  
17           *toilet, and bath or shower; and*

18           *“(III) uses water supply, plumb-*  
19           *ing, and sewage disposal systems that*  
20           *conform to any minimum standards*  
21           *established by the applicable county or*  
22           *State;*

23           *“(iv) contain an electrical system*  
24           *using wiring and equipment properly in-*  
25           *stalled to safely supply electrical energy for*

1           adequate lighting and for operation of ap-  
2           pliances that conforms to any appropriate  
3           county, State, or national code;

4           “(v) be not less than the size provided  
5           under the applicable locally adopted stand-  
6           ards for size of dwelling units, except that  
7           the Secretary, upon request of the Depart-  
8           ment of Hawaiian Home Lands may waive  
9           the size requirements under this paragraph;  
10          and

11          “(vi) conform with the energy perform-  
12          ance requirements for new construction es-  
13          tablished by the Secretary under section  
14          526(a) of the National Housing Act (12  
15          U.S.C.A. 1735f-4), unless the Secretary de-  
16          termines that the requirements are not ap-  
17          plicable.

18          “(l) *APPLICABILITY OF CIVIL RIGHTS STATUTES.*—To  
19          the extent that the requirements of title VI of the Civil  
20          Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII  
21          of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.)  
22          apply to a guarantee provided under this subsection, noth-  
23          ing in the requirements concerning discrimination on the  
24          basis of race shall be construed to prevent the provision of  
25          the guarantee to an eligible entity on the basis that the en-

1 *tity serves Native Hawaiian families or is a Native Hawai-*  
2 *ian family.”.*