

106TH CONGRESS  
1ST SESSION

# S. 225

[Report No. 106–192]

To provide Federal housing assistance to Native Hawaiians.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

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

OCTOBER 14, 1999

Reported by Mr. CAMPBELL, with an amendment

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

OCTOBER 27, 1999

Referred sequentially to the Committee on Banking, Housing, and Urban Affairs, and if the bill is not reported by that Committee by November 2, 1999, the Committee be discharged from further consideration thereof, and the bill be placed on the calendar, by unanimous consent

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## 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 American  
5       Housing Assistance and Self-Determination Amendments  
6       of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the United States has undertaken a respon-  
4 sibility to promote the general welfare of the United  
5 States by—

6 (A) employing its resources to remedy the  
7 unsafe and unsanitary housing conditions and  
8 the acute shortage of decent, safe, and sanitary  
9 dwellings for families of lower income; and

10 (B) developing effective partnerships with  
11 governmental and private entities to accomplish  
12 the objectives referred to in subparagraph (A);

13 (2) pursuant to the provisions of the Hawaiian  
14 Homes Commission Act, 1920 (42 Stat. 108 et  
15 seq.); the United States set aside 200,000 acres of  
16 land in the Federal territory that later became the  
17 State of Hawaii in order to establish a homeland for  
18 the native people of Hawaii—Native Hawaiians;

19 (3) despite the intent of Congress in 1920 to  
20 address the housing needs of Native Hawaiians  
21 through the enactment of the Hawaiian Homes  
22 Commission Act, 1920 (42 Stat. 108 et seq.); some  
23 agencies of the Federal Government have taken the  
24 legal position that subsequently enacted Federal  
25 housing laws designed to address the housing needs  
26 of all eligible families in the United States could not

1 be extended to address the needs for housing and in-  
2 frastructure development on Hawaiian home lands  
3 (as that term is defined in section 801 of the Native  
4 American Housing Assistance and Self-Determina-  
5 tion Act of 1996, as added by section 3 of this Act)  
6 with the result that otherwise eligible Native Hawai-  
7 ians residing on the Hawaiian home lands have been  
8 foreclosed from participating in Federal housing as-  
9 sistance programs available to all other eligible fami-  
10 lies in the United States;

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

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

21 (A) of housing problems in the Native Ha-  
22 waiian population is 49 percent, as compared  
23 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 house-  
5                   holds 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  
12                  in section 801 of the Native American Housing As-  
13                  sistance and Self-Determination Act of 1996, as  
14                  added by section 3 of this Act, eligible to reside on  
15                  the Hawaiian Home Lands are the most severe,  
16                  as—

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

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

24                  (7) applying the Department of Housing and  
25                  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  
6           either 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  
11          more than 30 percent of their income for shelter,  
12          and  $\frac{1}{2}$  of 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 ac-  
17          cess to Federal low-income housing assistance pro-  
18          grams available to other qualified residents of the  
19          United States; and that a more effective means of  
20          addressing their housing needs must be authorized;

21          (10) consistent with the recommendations of  
22          the National Commission on American Indian, Alas-  
23          ka Native, and Native Hawaiian Housing; and in  
24          order to address the continuing prevalence of ex-  
25          traordinarily severe housing needs among Native

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

8            (11) under the treaty-making power of the  
 9      United States, Congress had the authority to con-  
 10     firm a treaty between the United States and the  
 11     government that represented the Hawaiian people  
 12     under clause 3 of section 8 of article I of the Con-  
 13     stitution, the authority of Congress to address mat-  
 14     ters affecting the indigenous peoples of the United  
 15     States includes the authority to address matters af-  
 16     fecting Native Hawaiians;

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

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

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

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

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

6 ~~(13)~~ the political relationship between the  
 7 United States and the Native Hawaiian people has  
 8 been recognized and reaffirmed by the United States  
 9 as evidenced by the inclusion of Native Hawaiians  
 10 in—

11 (A) the Native American Programs Act of  
 12 1974 ~~(42 U.S.C. 2291 et seq.)~~;

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

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

17 (D) the Native American Graves Protec-  
 18 tion and Repatriation Act ~~(25 U.S.C. 3001 et~~  
 19 ~~seq.)~~;

20 (E) the National Historic Preservation Act  
 21 ~~(16 U.S.C. 470 et seq.)~~;

22 (F) the Native American Languages Act of  
 23 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

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

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

(14) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

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

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States; and mandating that



1           those lands be held in public trust, for the  
2           betterment of the conditions of Native Ha-  
3           waiians, as that term is defined in section  
4           801(15) of the Native American Housing  
5           Assistance and Self-Determination Act of  
6           1996, as added by section 3 of this Act;  
7           and

8           (ii) by transferring what the United  
9           States considered to be a trust responsi-  
10          bility for the administration of Hawaiian  
11          Home Lands to the State of Hawaii, but  
12          retaining the authority to enforce the  
13          trust, including the exclusive right of the  
14          United States to consent to any actions af-  
15          fecting the lands which comprise the cor-  
16          pus of the trust and any amendments to  
17          the Hawaiian Homes Commission Act,  
18          1920 (42 Stat. 108 et seq.); enacted by the  
19          legislature of the State of Hawaii affecting  
20          the rights of beneficiaries under the Act;

21          (C) the authorization of mortgage loans in-  
22          sured by the Federal Housing Administration  
23          for the purchase, construction, or refinancing of  
24          homes on Hawaiian Home Lands under the Act  
25          of June 27, 1934 (commonly referred to as the

1 “National Housing Act” (42 Stat. 1246 et seq.,  
2 chapter 847; 12 U.S.C. 1701 et seq.);

3 (D) authorizing Native Hawaiian represen-  
4 tation on the National Commission on Amer-  
5 ican Indian, Alaska Native, and Native Hawai-  
6 ian Housing under Public Law 101–235;

7 (E) the inclusion of Native Hawaiians in  
8 the definition under section 3764 of title 38,  
9 United States Code, applicable to subchapter V  
10 of chapter 37 of title 38, United States Code  
11 (relating to a housing loan program for Native  
12 American veterans); and

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

21 **SEC. 3. HOUSING ASSISTANCE.**

22 The Native American Housing Assistance and Self-  
23 Determination Act of 1996 (25 U.S.C. 4101 et seq.) is  
24 amended by adding at the end the following:

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

4 **~~“SEC. 801. DEFINITIONS.~~**

5 ~~“In this title:~~

6 ~~“(1) DEPARTMENT OF HAWAIIAN HOME LANDS;~~  
 7 ~~DEPARTMENT.—The term ‘Department of Hawaiian~~  
 8 ~~Home Lands’ or ‘Department’ means the agency or~~  
 9 ~~department of the government of the State of Ha-~~  
 10 ~~waii that is responsible for the administration of the~~  
 11 ~~Hawaiian Homes Commission Act, 1920 (42 Stat.~~  
 12 ~~108 et seq.).~~

13 ~~“(2) DIRECTOR.—The term ‘Director’ means~~  
 14 ~~the Director of the Department of Hawaiian Home~~  
 15 ~~Lands.~~

16 ~~“(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMI-~~  
 17 ~~LIES.—~~

18 ~~“(A) IN GENERAL.—The term ‘elderly~~  
 19 ~~family’ or ‘near-elderly family’ means a family~~  
 20 ~~whose head (or his or her spouse), or whose sole~~  
 21 ~~member, is—~~

22 ~~“(i) for an elderly family, an elderly~~  
 23 ~~person; or~~

24 ~~“(ii) for a near-elderly family, a near-~~  
 25 ~~elderly person.~~

1                   “(B) CERTAIN FAMILIES INCLUDED.—The  
2                   term ‘elderly family’ or ‘near-elderly family’  
3                   includes—

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

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

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

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

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

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

22                  “(6) HOUSING ENTITY.—The term ‘housing en-  
23                  tity’ means the Department of Hawaiian Home  
24                  Lands.

1           “(7) HOUSING PLAN.—The term ‘housing plan’  
2       means a plan developed by the Department of Ha-  
3       waiian Home Lands.

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

7                 “(A) the median income for the Hawaiian  
8                 housing area, which shall be determined by the  
9                 Secretary; or

10                “(B) the median income for the State of  
11                Hawaii.

12           “(9) NATIVE HAWAIIAN.—The term ‘Native  
13       Hawaiian’ has the meaning given the term ‘Native  
14       Hawaiian’ in section 201 of the Hawaiian Homes  
15       Commission Act, 1920 (42 Stat. 108 et seq.).

16       **“SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING**  
17                 **ACTIVITIES.**

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

24           “(b) PLAN REQUIREMENT.—

1           “(1) IN GENERAL.—The Secretary may make a  
2           grant under this title to the Department of Hawai-  
3           ian Home Lands for a fiscal year only if—

4                   “(A) the Director has submitted to the  
5           Secretary a housing plan for that fiscal year;  
6           and

7                   “(B) the Secretary has determined under  
8           section 804 that the housing plan complies with  
9           the requirements of section 803.

10           “(2) WAIVER.—The Secretary may waive the  
11           applicability of the requirements under paragraph  
12           (1), in part, if the Secretary finds that the Depart-  
13           ment of Hawaiian Home Lands has not complied or  
14           cannot comply with those requirements due to cir-  
15           cumstances beyond the control of the Department of  
16           Hawaiian Home Lands.

17           “(c) USE OF AFFORDABLE HOUSING ACTIVITIES  
18           UNDER PLAN.—Except as provided in subsection (c),  
19           amounts provided under a grant under this section may  
20           be used only for affordable housing activities under this  
21           title that are consistent with a housing plan approved  
22           under section 804.

23           “(d) ADMINISTRATIVE EXPENSES.—

24                   “(1) IN GENERAL.—The Secretary shall, by  
25           regulation, authorize the Department of Hawaiian

1 Home Lands to use a percentage of any grant  
 2 amounts received under this title for any reasonable  
 3 administrative and planning expenses of the Depart-  
 4 ment relating to carrying out this title and activities  
 5 assisted with those amounts.

6 ~~“(2) ADMINISTRATIVE AND PLANNING EX-~~  
 7 ~~PENSES.—The administrative and planning expenses~~  
 8 ~~referred to in paragraph (1) include—~~

9 ~~“(A) costs for salaries of individuals en-~~  
 10 ~~gaged in administering and managing afford-~~  
 11 ~~able housing activities assisted with grant~~  
 12 ~~amounts provided under this title; and~~

13 ~~“(B) expenses incurred in preparing a~~  
 14 ~~housing plan under section 803.~~

15 ~~“(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Direc-~~  
 16 ~~tor shall make all reasonable efforts, consistent with the~~  
 17 ~~purposes of this title, to maximize participation by the pri-~~  
 18 ~~vate sector, including nonprofit organizations and for-~~  
 19 ~~profit entities, in implementing a housing plan that has~~  
 20 ~~been approved by the Secretary under section 803.~~

21 ~~“(f) APPLICABILITY OF OTHER PROVISIONS.—~~

22 ~~“(1) IN GENERAL.—The Secretary shall be~~  
 23 ~~guided by the relevant program requirements of ti-~~  
 24 ~~tles I, II, and IV in the implementation of housing~~

1 assistance programs for Native Hawaiians under  
2 this title.

3 “(2) ~~EXCEPTION.~~—The Secretary may make  
4 exceptions to, or modifications of, program require-  
5 ments for Native American housing assistance set  
6 forth in titles I, II, and IV as necessary and appro-  
7 priate to meet the unique situation and housing  
8 needs of Native Hawaiians.

9 **“SEC. 803. HOUSING PLAN.**

10 “(a) ~~PLAN SUBMISSION.~~—The Secretary shall—

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

13 “(2) provide for the review of each plan sub-  
14 mitted under paragraph (1).

15 “(b) ~~5-YEAR PLAN.~~—Each housing plan under this  
16 section shall—

17 “(1) be in a form prescribed by the Secretary;  
18 and

19 “(2) contain, with respect to the 5-year period  
20 beginning with the fiscal year for which the plan is  
21 submitted, the following information:

22 “(A) ~~MISSION STATEMENT.~~—A general  
23 statement of the mission of the Department of  
24 Hawaiian Home Lands to serve the needs of



1 the low-income families to be served by the De-  
 2 partment.

3 “(B) GOAL AND OBJECTIVES.—A state-  
 4 ment of the goals and objectives of the Depart-  
 5 ment of Hawaiian Home Lands to enable the  
 6 Department to serve the needs identified in  
 7 subparagraph (A) during the period.

8 “(C) ACTIVITIES PLANS.—An overview of  
 9 the activities planned during the period includ-  
 10 ing an analysis of the manner in which the ac-  
 11 tivities will enable the Department to meet its  
 12 mission, goals, and objectives.

13 “(c) 1-YEAR PLAN.—A housing plan under this sec-  
 14 tion shall—

15 “(1) be in a form prescribed by the Secretary;  
 16 and

17 “(2) contain the following information relating  
 18 to the fiscal year for which the assistance under this  
 19 title is to be made available:

20 “(A) GOALS AND OBJECTIVES.—A state-  
 21 ment of the goals and objectives to be accom-  
 22 plished during the period covered by the plan.

23 “(B) STATEMENT OF NEEDS.—A state-  
 24 ment of the housing needs of the low-income  
 25 families served by the Department and the

means by which those needs will be addressed during the period covered by the plan, including—

“(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

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

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

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

“(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

“(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts

made available will be used to leverage additional resources; and

“(ii) the uses to which the resources described in clause (i) will be committed, including—

“(I) eligible and required affordable housing activities; and

“(II) administrative expenses.

“(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

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

“(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

“(I) rental assistance;

1 “(II) the production of new units;

2 “(III) the acquisition of existing

3 units; or

4 “(IV) the rehabilitation of units;

5 “(iii) a description of the structure,

6 coordination, and means of cooperation be-

7 tween the Department of Hawaiian Home

8 Lands and any other governmental entities

9 in the development, submission, or imple-

10 mentation of housing plans, including a de-

11 scription of—

12 “(I) the involvement of private,

13 public, and nonprofit organizations

14 and institutions;

15 “(II) the use of loan guarantees

16 under section 184A of the Housing

17 and Community Development Act of

18 1992; and

19 “(III) other housing assistance

20 provided by the United States, includ-

21 ing loans, grants, and mortgage insur-

22 ance;

23 “(iv) a description of the manner in

24 which the plan will address the needs iden-

25 tified pursuant to subparagraph (C);

1 “(v) a description of—

2 “(I) any existing or anticipated  
3 homeownership programs and rental  
4 programs to be carried out during the  
5 period covered by the plan; and

6 “(II) the requirements and as-  
7 sistance available under the programs  
8 referred to in subclause (I);

9 “(vi) a description of—

10 “(I) any existing or anticipated  
11 housing rehabilitation programs nec-  
12 essary to ensure the long-term viabil-  
13 ity of the housing to be carried out  
14 during the period covered by the plan;  
15 and

16 “(II) the requirements and as-  
17 sistance available under the programs  
18 referred to in subclause (I);

19 “(vii) a description of—

20 “(I) all other existing or antici-  
21 pated housing assistance provided by  
22 the Department of Hawaiian Home  
23 Lands during the period covered by  
24 the plan, including—

25 “(aa) transitional housing;

1                               “(bb) homeless housing;  
2                               “(cc) college housing; and  
3                               “(dd) supportive services  
4                               housing; and  
5                               “(H) the requirements and as-  
6                               sistance available under such pro-  
7                               grams;  
8                               “(viii)(I) a description of any housing  
9                               to be demolished or disposed of;  
10                              “(H) a timetable for that demolition  
11                              or disposition; and  
12                              “(III) any other information required  
13                              by the Secretary with respect to that dem-  
14                              olition or disposition;  
15                              “(ix) a description of the manner in  
16                              which the Department of Hawaiian Home  
17                              Lands will coordinate with welfare agencies  
18                              in the State of Hawaii to ensure that resi-  
19                              dents of the affordable housing will be pro-  
20                              vided with access to resources to assist in  
21                              obtaining employment and achieving self-  
22                              sufficiency;  
23                              “(x) a description of the requirements  
24                              established by the Department of Hawai-  
25                              ian Home Lands to—

1                   “(I) promote the safety of resi-  
2                   dents of the affordable housing;

3                   “(II) facilitate the undertaking of  
4                   crime prevention measures;

5                   “(III) allow resident input and  
6                   involvement, including the establish-  
7                   ment of resident organizations; and

8                   “(IV) allow for the coordination  
9                   of crime prevention activities between  
10                  the Department and local law enforce-  
11                  ment officials; and

12                  “(xi) a description of the entities that  
13                  will carry out the activities under the plan;  
14                  including the organizational capacity and  
15                  key personnel of the entities.

16                  “(E) CERTIFICATION OF COMPLIANCE.—  
17                  Evidence of compliance that shall include, as  
18                  appropriate—

19                         “(i) a certification that the Depart-  
20                         ment of Hawaiian Home Lands will com-  
21                         ply with—

22                                 “(I) title VI of the Civil Rights  
23                                 Act of 1964 (42 U.S.C. 2000d et seq.)  
24                                 or with title VIII of the Civil Rights  
25                                 Act of 1968 (42 U.S.C. 3601 et seq.)

1 in carrying out this title, to the extent  
2 that such title is applicable; and

3 “(H) other applicable Federal  
4 statutes;

5 “(ii) a certification that the Depart-  
6 ment will require adequate insurance cov-  
7 erage for housing units that are owned and  
8 operated or assisted with grant amounts  
9 provided under this title, in compliance  
10 with such requirements as may be estab-  
11 lished by the Secretary;

12 “(iii) a certification that policies are  
13 in effect and are available for review by the  
14 Secretary and the public governing the eli-  
15 gibility, admission, and occupancy of fami-  
16 lies for housing assisted with grant  
17 amounts provided under this title;

18 “(iv) a certification that policies are  
19 in effect and are available for review by the  
20 Secretary and the public governing rents  
21 charged, including the methods by which  
22 such rents or homebuyer payments are de-  
23 termined, for housing assisted with grant  
24 amounts provided under this title; and



1           “(v) a certification that policies are in  
 2           effect and are available for review by the  
 3           Secretary and the public governing the  
 4           management and maintenance of housing  
 5           assisted with grant amounts provided  
 6           under this title.

7           “(d) ~~APPLICABILITY OF CIVIL RIGHTS STATUTES.—~~

8           “(1) ~~IN GENERAL.—~~To the extent that the re-  
 9           quirements of title VI of the Civil Rights Act of  
 10          1964 (42 U.S.C. 2000d et seq.) or of title VIII of  
 11          the Civil Rights Act of 1968 (42 U.S.C. 3601 et  
 12          seq.) apply to assistance provided under this title,  
 13          nothing in the requirements concerning discrimina-  
 14          tion on the basis of race shall be construed to pre-  
 15          vent the provision of assistance under this title—

16               “(A) to the Department of Hawaiian  
 17          Home Lands on the basis that the Department  
 18          served Native Hawaiians; or

19               “(B) to an eligible family on the basis that  
 20          the family is a Native Hawaiian family.

21           “(2) ~~CIVIL RIGHTS.—~~Program eligibility under  
 22          this title may be restricted to Native Hawaiians.  
 23          Subject to the preceding sentence, no person may be  
 24          discriminated against on the basis of race, color, na-

1        tional origin, religion, sex, familial status, or dis-  
2        ability.

3        ~~“(e) USE OF NONPROFIT ORGANIZATIONS.—As a~~  
4        condition of receiving grant amounts under this title, the  
5        Department of Hawaiian Home Lands shall, to the extent  
6        practicable, provide for private nonprofit organizations ex-  
7        perienceed in the planning and development of affordable  
8        housing for Native Hawaiians to carry out affordable  
9        housing activities with those grant amounts.

10    **~~“SEC. 804. REVIEW OF PLANS.~~**

11        ~~“(a) REVIEW AND NOTICE.—~~

12            ~~“(1) REVIEW.—~~

13                    ~~“(A) IN GENERAL.—The Secretary shall~~  
14                    conduct a review of a housing plan submitted to  
15                    the Secretary under section 803 to ensure that  
16                    the plan complies with the requirements of that  
17                    section.

18                    ~~“(B) LIMITATION.—The Secretary shall~~  
19                    have the discretion to review a plan referred to  
20                    in subparagraph (A) only to the extent that the  
21                    Secretary considers that the review is necessary.

22            ~~“(2) NOTICE.—~~

23                    ~~“(A) IN GENERAL.—Not later than 60~~  
24                    days after receiving a plan under section 803,  
25                    the Secretary shall notify the Director of the

1 Department of Hawaiian Home Lands whether  
 2 the plan complies with the requirements under  
 3 that section.

4 “(B) EFFECT OF FAILURE OF SECRETARY  
 5 TO TAKE ACTION.—For purposes of this title, if  
 6 the Secretary does not notify the Director, as  
 7 required under this subsection and subsection  
 8 (b), upon the expiration of the 60-day period  
 9 described in subparagraph (A)—

10 “(i) the plan shall be considered to  
 11 have been determined to comply with the  
 12 requirements under section 803; and

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

15 “(b) NOTICE OF REASONS FOR DETERMINATION OF  
 16 NONCOMPLIANCE.—If the Secretary determines that a  
 17 plan submitted under section 803 does not comply with  
 18 the requirements of that section, the Secretary shall speci-  
 19 fy in the notice under subsection (a)—

20 “(1) the reasons for noncompliance; and

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

23 “(c) REVIEW.—

24 “(1) IN GENERAL.—After the Director of the  
 25 Department of Hawaiian Home Lands submits a

1 housing plan under section 803, or any amendment  
 2 or modification to the plan to the Secretary, to the  
 3 extent that the Secretary considers such action to be  
 4 necessary to make a determination under this sub-  
 5 section, the Secretary shall review the plan (includ-  
 6 ing any amendments or modifications thereto) to de-  
 7 termine whether the contents of the plan—

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

10 “(B) are consistent with information and  
 11 data available to the Secretary; and

12 “(C) are not prohibited by or inconsistent  
 13 with any provision of this Act or any other ap-  
 14 plicable law.

15 “(2) INCOMPLETE PLANS.—If the Secretary de-  
 16 termines under this subsection that any of the ap-  
 17 propriate certifications required under section  
 18 803(c)(2)(E) are not included in a plan, the plan  
 19 shall be considered to be incomplete.

20 “(d) UPDATES TO PLAN.—

21 “(1) IN GENERAL.—Subject to paragraph (2),  
 22 after a plan under section 803 has been submitted  
 23 for a fiscal year, the head of the Department of Ha-  
 24 waiian Home Lands may comply with the provisions  
 25 of that section for any succeeding fiscal year (with

1       respect to information included for the 5-year period  
 2       under section 803(b) or for the 1-year period under  
 3       section 803(c) by submitting only such information  
 4       regarding such changes as may be necessary to up-  
 5       date the plan previously submitted.

6           “(2) COMPLETE PLANS.—The Director shall  
 7       submit a complete plan under section 803 not later  
 8       than 4 years after submitting an initial plan under  
 9       that section, and not less frequently than every 4  
 10      years thereafter.

11          “(e) EFFECTIVE DATE.—This section and section  
 12      803 shall take effect on the date provided by the Secretary  
 13      pursuant to section 807(a) to provide for timely submis-  
 14      sion and review of the housing plan as necessary for the  
 15      provision of assistance under this title for fiscal year 2000.

16      **“SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR**  
 17                                   **STANDARDS.**

18          “(a) PROGRAM INCOME.—

19                  “(1) AUTHORITY TO RETAIN.—The Department  
 20      of Hawaiian Home Lands may retain any program  
 21      income that is realized from any grant amounts re-  
 22      ceived by the Department under this title if—

23                          “(A) that income was realized after the ini-  
 24                          tial disbursement of the grant amounts received  
 25                          by the Department; and

1           ~~“(B) the Director agrees to use the pro-~~  
 2           ~~gram income for affordable housing activities in~~  
 3           ~~accordance with the provisions of this title.~~

4           ~~“(2) PROHIBITION OF REDUCTION OF GRANT.—~~  
 5           ~~The Secretary may not reduce the grant amount for~~  
 6           ~~the Department of Hawaiian Home Lands based~~  
 7           ~~solely on—~~

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

10           ~~“(B) the amount of any such program in-~~  
 11           ~~come retained.~~

12           ~~“(3) EXCLUSION OF AMOUNTS.—The Secretary~~  
 13           ~~may, by regulation, exclude from consideration as~~  
 14           ~~program income any amounts determined to be so~~  
 15           ~~small that compliance with the requirements of this~~  
 16           ~~subsection would create an unreasonable administra-~~  
 17           ~~tive burden on the Department.~~

18           ~~“(b) LABOR STANDARDS.—~~

19           ~~“(1) IN GENERAL.—Any contract or agreement~~  
 20           ~~for assistance, sale, or lease pursuant to this title~~  
 21           ~~shall contain—~~

22           ~~“(A) a provision requiring that an amount~~  
 23           ~~not less than the wages prevailing in the local-~~  
 24           ~~ity, as determined or adopted (subsequent to a~~  
 25           ~~determination under applicable State or local~~

law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

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

“(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

**“SEC. 806. ENVIRONMENTAL REVIEW.**

“(a) IN GENERAL.—

1           ~~“(1) RELEASE OF FUNDS.—~~

2                   ~~“(A) IN GENERAL.—~~The Secretary may  
3 carry out the alternative environmental protec-  
4 tion procedures described in subparagraph (B)  
5 in order to ensure—

6                   ~~“(i) that the policies of the National~~  
7                   ~~Environmental Policy Act of 1969 (42~~  
8                   ~~U.S.C. 4321 et seq.) and other provisions~~  
9                   ~~of law that further the purposes of such~~  
10                  ~~Act (as specified in regulations issued by~~  
11                  ~~the Secretary) are most effectively imple-~~  
12                  ~~mented in connection with the expenditure~~  
13                  ~~of grant amounts provided under this title;~~  
14                  ~~and~~

15                  ~~“(ii) to the public undiminished pro-~~  
16                  ~~tection of the environment.~~

17                  ~~“(B) ALTERNATIVE ENVIRONMENTAL PRO-~~  
18                  ~~TECTION PROCEDURE.—~~In lieu of applying en-  
19 vironmental protection procedures otherwise ap-  
20 plicable, the Secretary may by regulation pro-  
21 vide for the release of funds for specific projects  
22 to the Department of Hawaiian Home Lands if  
23 the Director of the Department assumes all of  
24 the responsibilities for environmental review,  
25 decisionmaking, and action under the National



Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

~~“(2) REGULATIONS.—~~

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

~~“(B) CONTENTS.—~~The regulations issued under this paragraph shall—

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

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

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

~~“(3) EFFECT ON ASSUMED RESPONSIBILITY.—~~

The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian

1 Home Lands for grant amounts with respect to any  
 2 specific release of funds.

3 ~~“(b) PROCEDURE.—~~

4 ~~“(1) IN GENERAL.—The Secretary shall author-~~  
 5 ~~ize the release of funds subject to the procedures~~  
 6 ~~under this section only if, not less than 15 days be-~~  
 7 ~~fore that approval and before any commitment of~~  
 8 ~~funds to such projects, the Director of the Depart-~~  
 9 ~~ment of Hawaiian Home Lands submits to the Sec-~~  
 10 ~~retary a request for such release accompanied by a~~  
 11 ~~certification that meets the requirements of sub-~~  
 12 ~~section (c).~~

13 ~~“(2) EFFECT OF APPROVAL.—The approval of~~  
 14 ~~the Secretary of a certification described in para-~~  
 15 ~~graph (1) shall be deemed to satisfy the responsibil-~~  
 16 ~~ities of the Secretary under the National Environ-~~  
 17 ~~mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)~~  
 18 ~~and such other provisions of law as the regulations~~  
 19 ~~of the Secretary specify to the extent that those re-~~  
 20 ~~sponsibilities relate to the releases of funds for~~  
 21 ~~projects that are covered by that certification.~~

22 ~~“(c) CERTIFICATION.—A certification under the pro-~~  
 23 ~~cedures under this section shall—~~

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

1           ~~“(2) be executed by the Director of the Depart-~~  
 2           ~~ment of Hawaiian Home Lands;~~

3           ~~“(3) specify that the Department of Hawaiian~~  
 4           ~~Home Lands has fully carried out its responsibilities~~  
 5           ~~as described under subsection (a); and~~

6           ~~“(4) specify that the Director—~~

7                   ~~“(A) consents to assume the status of a re-~~  
 8                   ~~sponsible Federal official under the National~~  
 9                   ~~Environmental Policy Act of 1969 (42 U.S.C.~~  
 10                   ~~4321 et seq.) and each provision of law speci-~~  
 11                   ~~fied in regulations issued by the Secretary to~~  
 12                   ~~the extent that those laws apply by reason of~~  
 13                   ~~subsection (a); and~~

14                   ~~“(B) is authorized and consents on behalf~~  
 15                   ~~of the Department of Hawaiian Home Lands~~  
 16                   ~~and the Director to accept the jurisdiction of~~  
 17                   ~~the Federal courts for the purpose of enforce-~~  
 18                   ~~ment of the responsibilities of the Director of~~  
 19                   ~~the Department of Hawaiian Home Lands as~~  
 20                   ~~such an official.~~

21   **~~“SEC. 807. REGULATIONS.~~**

22           ~~“The Secretary shall issue final regulations necessary~~  
 23   ~~to carry out this title not later than October 1, 1999.~~

1 **~~“SEC. 808. EFFECTIVE DATE.~~**

2 ~~“Except as otherwise expressly provided in this title,~~  
 3 ~~this title shall take effect on October 1, 1999.~~

4 **~~“SEC. 809. AFFORDABLE HOUSING ACTIVITIES.~~**

5 ~~“(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMI-~~  
 6 ~~LIES.—~~

7 ~~“(1) PRIMARY OBJECTIVE.—The national objec-~~  
 8 ~~tives of this title are—~~

9 ~~“(A) to assist and promote affordable~~  
 10 ~~housing activities to develop, maintain, and op-~~  
 11 ~~erate affordable housing in safe and healthy en-~~  
 12 ~~vironments for occupancy by low-income Native~~  
 13 ~~Hawaiian families;~~

14 ~~“(B) to ensure better access to private~~  
 15 ~~mortgage markets and to promote self-suffi-~~  
 16 ~~ciency of low-income Native Hawaiian families;~~

17 ~~“(C) to coordinate activities to provide~~  
 18 ~~housing for low-income Native Hawaiian fami-~~  
 19 ~~lies with Federal, State and local activities to~~  
 20 ~~further economic and community development;~~

21 ~~“(D) to plan for and integrate infrastruc-~~  
 22 ~~ture resources on the Hawaiian Home Lands~~  
 23 ~~with housing development; and~~

24 ~~“(E) to—~~

25 ~~“(i) promote the development of pri-~~  
 26 ~~vate capital markets; and~~

1           “(ii) allow the markets referred to in  
2           clause (i) to operate and grow, thereby  
3           benefiting Native Hawaiian communities.

4           ~~“(2) ELIGIBLE FAMILIES.—~~

5           ~~“(A) IN GENERAL.—~~Except as provided  
6           under subparagraph (B), assistance for eligible  
7           housing activities under this title shall be lim-  
8           ited to low-income Native Hawaiian families.

9           ~~“(B) EXCEPTION TO LOW-INCOME RE-~~  
10          ~~QUIREMENT.—~~

11          ~~“(i) IN GENERAL.—~~The Director may  
12          provide assistance for homeownership ac-  
13          tivities under—

14                 ~~“(I) section 810(b);~~

15                 ~~“(II) model activities under sec-~~  
16                 ~~tion 810(f); or~~

17                 ~~“(III) loan guarantee activities~~  
18                 under section 184A of the Housing  
19                 and Community Development Act of  
20                 1992 to Native Hawaiian families who  
21                 are not low-income families, to the ex-  
22                 tent that the Secretary approves the  
23                 activities under that section to ad-  
24                 dress a need for housing for those

1 families that cannot be reasonably  
2 met without that assistance.

3 “(ii) LIMITATIONS.—The Secretary  
4 shall establish limitations on the amount of  
5 assistance that may be provided under this  
6 title for activities for families that are not  
7 low-income families.

8 “(C) OTHER FAMILIES.—Notwithstanding  
9 paragraph (1), the Director may provide hous-  
10 ing or housing assistance provided through af-  
11 fordable housing activities assisted with grant  
12 amounts under this title to a family that is not  
13 composed of Native Hawaiians if—

14 “(i) the Department determines that  
15 the presence of the family in the housing  
16 involved is essential to the well-being of  
17 Native Hawaiian families; and

18 “(ii) the need for housing for the fam-  
19 ily cannot be reasonably met without the  
20 assistance.

21 “(D) PREFERENCE.—

22 “(i) IN GENERAL.—A housing plan  
23 submitted under section 803 may authorize  
24 a preference, for housing or housing assist-  
25 ance provided through affordable housing

activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

“(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

“(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

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

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

1           ~~“(1) develop or to support affordable housing~~  
 2           ~~for rental or homeownership; or~~

3           ~~“(2) provide housing services with respect to af-~~  
 4           ~~fordable housing; through the activities described in~~  
 5           ~~subsection (b).~~

6           ~~“(b) ACTIVITIES.—The activities described in this~~  
 7           ~~subsection are the following:~~

8           ~~“(1) DEVELOPMENT.—The acquisition, new~~  
 9           ~~construction, reconstruction, or moderate or sub-~~  
 10           ~~stantial rehabilitation of affordable housing; which~~  
 11           ~~may include—~~

12                   ~~“(A) real property acquisition;~~

13                   ~~“(B) site improvement;~~

14                   ~~“(C) the development of utilities and util-~~  
 15                   ~~ity services;~~

16                   ~~“(D) conversion;~~

17                   ~~“(E) demolition;~~

18                   ~~“(F) financing;~~

19                   ~~“(G) administration and planning; and~~

20                   ~~“(H) other related activities.~~

21           ~~“(2) HOUSING SERVICES.—The provision of~~  
 22           ~~housing-related services for affordable housing;~~  
 23           ~~including—~~

24                   ~~“(A) housing counseling in connection with~~  
 25                   ~~rental or homeownership assistance;~~



1           “(B) the establishment and support of  
2           resident organizations and resident manage-  
3           ment corporations;

4           “(C) energy auditing;

5           “(D) activities related to the provisions of  
6           self-sufficiency and other services; and

7           “(E) other services related to assisting  
8           owners, tenants, contractors, and other entities  
9           participating or seeking to participate in other  
10          housing activities assisted pursuant to this sec-  
11          tion.

12          “(3) HOUSING MANAGEMENT SERVICES.—The  
13          provision of management services for affordable  
14          housing, including—

15               “(A) the preparation of work specifica-  
16               tions;

17               “(B) loan processing;

18               “(C) inspections;

19               “(D) tenant selection;

20               “(E) management of tenant-based rental  
21               assistance; and

22               “(F) management of affordable housing  
23               projects.

24          “(4) CRIME PREVENTION AND SAFETY ACTIVI-  
25          TIES.—The provision of safety, security, and law en-

1        enforcement measures and activities appropriate to  
 2        protect residents of affordable housing from crime.

3            ~~“(5) MODEL ACTIVITIES.—Housing activities~~  
 4        under model programs that are—

5            ~~“(A) designed to carry out the purposes of~~  
 6        this title; and

7            ~~“(B) specifically approved by the Secretary~~  
 8        as appropriate for the purpose referred to in  
 9        subparagraph (A).

10    **~~“SEC. 811. PROGRAM REQUIREMENTS.~~**

11        ~~“(a) RENTS.—~~

12            ~~“(1) ESTABLISHMENT.—Subject to paragraph~~  
 13        ~~(2), as a condition to receiving grant amounts under~~  
 14        this title, the Director shall develop written policies  
 15        governing rents and homebuyer payments charged  
 16        for dwelling units assisted under this title, including  
 17        methods by which such rents and homebuyer pay-  
 18        ments are determined.

19            ~~“(2) MAXIMUM RENT.—In the case of any low-~~  
 20        income family residing in a dwelling unit assisted  
 21        with grant amounts under this title, the monthly  
 22        rent or homebuyer payment (as applicable) for that  
 23        dwelling unit may not exceed 30 percent of the  
 24        monthly adjusted income of that family.

25        ~~“(b) MAINTENANCE AND EFFICIENT OPERATION.—~~

1           “(1) IN GENERAL.—The Director shall, using  
 2           amounts of any grants received under this title, re-  
 3           serve and use for operating under section 810 such  
 4           amounts as may be necessary to provide for the con-  
 5           tinued maintenance and efficient operation of such  
 6           housing.

7           “(2) DISPOSAL OF CERTAIN HOUSING.—This  
 8           subsection may not be construed to prevent the Di-  
 9           rector, or any entity funded by the Department,  
 10          from demolishing or disposing of housing, pursuant  
 11          to regulations established by the Secretary.

12          “(c) INSURANCE COVERAGE.—As a condition to re-  
 13          ceiving grant amounts under this title, the Director shall  
 14          require adequate insurance coverage for housing units that  
 15          are owned or operated or assisted with grant amounts pro-  
 16          vided under this title.

17          “(d) ELIGIBILITY FOR ADMISSION.—As a condition  
 18          to receiving grant amounts under this title, the Director  
 19          shall develop written policies governing the eligibility, ad-  
 20          mission, and occupancy of families for housing assisted  
 21          with grant amounts provided under this title.

22          “(e) MANAGEMENT AND MAINTENANCE.—As a con-  
 23          dition to receiving grant amounts under this title, the Di-  
 24          rector shall develop policies governing the management

1 and maintenance of housing assisted with grant amounts  
 2 under this title.

3 **~~“SEC. 812. TYPES OF INVESTMENTS.~~**

4 ~~“(a) IN GENERAL.—~~Subject to section 811 and an  
 5 applicable housing plan approved under section 803, the  
 6 Director shall have—

7 ~~“(1) the discretion to use grant amounts for af-~~  
 8 ~~fordable housing activities through the use of—~~

9 ~~“(A) equity investments;~~

10 ~~“(B) interest-bearing loans or advances;~~

11 ~~“(C) noninterest-bearing loans or ad-~~  
 12 ~~vances;~~

13 ~~“(D) interest subsidies;~~

14 ~~“(E) the leveraging of private investments;~~

15 ~~or~~

16 ~~“(F) any other form of assistance that the~~  
 17 ~~Secretary determines to be consistent with the~~  
 18 ~~purposes of this title; and~~

19 ~~“(2) the right to establish the terms of assist-~~  
 20 ~~ance provided with funds referred to in paragraph~~  
 21 ~~(1).~~

22 ~~“(b) INVESTMENTS.—~~The Director may invest grant  
 23 amounts for the purposes of carrying out affordable hous-  
 24 ing activities in investment securities and other obliga-  
 25 tions, as approved by the Secretary.

1 **~~“SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TAR-~~**  
 2 **~~GETING.~~**

3 ~~“(a) IN GENERAL.—Housing shall qualify for afford-~~  
 4 ~~able housing for purposes of this title only if—~~

5 ~~“(1) each dwelling unit in the housing—~~

6 ~~“(A) in the case of rental housing, is made~~  
 7 ~~available for occupancy only by a family that is~~  
 8 ~~a low-income family at the time of the initial~~  
 9 ~~occupancy of that family of that unit; and~~

10 ~~“(B) in the case of housing for home-~~  
 11 ~~ownership, is made available for purchase only~~  
 12 ~~by a family that is a low-income family at the~~  
 13 ~~time of purchase; and~~

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

17 ~~“(A) the remaining useful life of the prop-~~  
 18 ~~erty (as determined by the Secretary) without~~  
 19 ~~regard to the term of the mortgage or to trans-~~  
 20 ~~fer of ownership; or~~

21 ~~“(B) such other period as the Secretary~~  
 22 ~~determines is the longest feasible period of time~~  
 23 ~~consistent with sound economics and the pur-~~  
 24 ~~poses of this title, except upon a foreclosure by~~  
 25 ~~a lender (or upon other transfer in lieu of fore-~~  
 26 ~~closure) if that action—~~

1                   “(i) recognizes any contractual or  
 2                   legal rights of any public agency, nonprofit  
 3                   sponsor, or other person or entity to take  
 4                   an action that would—

5                   “(I) avoid termination of low-in-  
 6                   come affordability, in the case of fore-  
 7                   closure; or

8                   “(II) transfer ownership in lieu  
 9                   of foreclosure; and

10                  “(ii) is not for the purpose of avoiding  
 11                  low-income affordability restrictions, as de-  
 12                  termined by the Secretary.

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

16                  **“SEC. 814. LEASE REQUIREMENTS AND TENANT SELEC-**  
 17                  **TION.**

18                  “(a) LEASES.—Except to the extent otherwise pro-  
 19                  vided by or inconsistent with the laws of the State of Ha-  
 20                  waii, in renting dwelling units in affordable housing as-  
 21                  sisted with grant amounts provided under this title, the  
 22                  Director, owner, or manager shall use leases that—

23                  “(1) do not contain unreasonable terms and  
 24                  conditions;

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

4           “(3) require the Director, owner, or manager to  
5           give adequate written notice of termination of the  
6           lease, which shall be the period of time required  
7           under applicable State or local law;

8           “(4) specify that, with respect to any notice of  
9           eviction or termination, notwithstanding any State  
10          or local law, a resident shall be informed of the op-  
11          portunity, before any hearing or trial, to examine  
12          any relevant documents, record, or regulations di-  
13          rectly related to the eviction or termination;

14          “(5) require that the Director, owner, or man-  
15          ager may not terminate the tenancy, during the  
16          term of the lease, except for serious or repeated vio-  
17          lation of the terms and conditions of the lease, viola-  
18          tion of applicable Federal, State, or local law, or for  
19          other good cause; and

20          “(6) provide that the Director, owner, and man-  
21          ager may terminate the tenancy of a resident for  
22          any activity, engaged in by the resident, any member  
23          of the household of the resident, or any guest or  
24          other person under the control of the resident,  
25          that—

1           “(A) threatens the health or safety of, or  
 2           right to peaceful enjoyment of the premises by,  
 3           other residents or employees of the Department,  
 4           owner, or manager;

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

9           “(C) is criminal activity (including drug-re-  
 10          lated criminal activity) on or off the premises.

11       “(b) TENANT OR HOMEBUYER SELECTION.—As a  
 12       condition to receiving grant amounts under this title, the  
 13       Director shall adopt and use written tenant and home-  
 14       buyer selection policies and criteria that—

15           “(1) are consistent with the purpose of pro-  
 16       viding housing for low-income families;

17           “(2) are reasonably related to program eligi-  
 18       bility and the ability of the applicant to perform the  
 19       obligations of the lease; and

20           “(3) provide for—

21           “(A) the selection of tenants and home-  
 22       buyers from a written waiting list in accordance  
 23       with the policies and goals set forth in an appli-  
 24       cable housing plan approved under section 803;  
 25       and



1                   “(B) the prompt notification in writing of  
 2                   any rejected applicant of the grounds for that  
 3                   rejection.

4   **“SEC. 815. REPAYMENT.**

5           “If the Department of Hawaiian Home Lands uses  
 6   grant amounts to provide affordable housing under activi-  
 7   ties under this title and, at any time during the useful  
 8   life of the housing, the housing does not comply with the  
 9   requirement under section 813(a)(2), the Secretary  
 10 shall—

11                   “(1) reduce future grant payments on behalf of  
 12       the Department by an amount equal to the grant  
 13       amounts used for that housing (under the authority  
 14       of section 819(a)(2)); or

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

17   **“SEC. 816. ANNUAL ALLOCATION.**

18           “For each fiscal year, the Secretary shall allocate any  
 19   amounts made available for assistance under this title for  
 20   the fiscal year, in accordance with the formula established  
 21   pursuant to section 817 to the Department of Hawaiian  
 22   Home Lands if the Department complies with the require-  
 23   ments under this title for a grant under this title.

1 ~~“SEC. 817. ALLOCATION FORMULA.~~

2       ~~“(a) ESTABLISHMENT.—The Secretary shall, by reg-~~  
 3 ~~ulation issued not later than the expiration of the 6-month~~  
 4 ~~period beginning on the date of enactment of the Native~~  
 5 ~~American Housing Assistance and Self-Determination~~  
 6 ~~Amendments of 1999, in the manner provided under sec-~~  
 7 ~~tion 807, establish a formula to provide for the allocation~~  
 8 ~~of amounts available for a fiscal year for block grants~~  
 9 ~~under this title in accordance with the requirements of this~~  
 10 ~~section.~~

11       ~~“(b) FACTORS FOR DETERMINATION OF NEED.—~~  
 12 ~~The formula under subsection (a) shall be based on factors~~  
 13 ~~that reflect the needs for assistance for affordable housing~~  
 14 ~~activities, including—~~

15               ~~“(1) the number of low-income dwelling units~~  
 16 ~~owned or operated at the time pursuant to a con-~~  
 17 ~~tract between the Director and the Secretary;~~

18               ~~“(2) the extent of poverty and economic distress~~  
 19 ~~and the number of Native Hawaiian families eligible~~  
 20 ~~to reside on the Hawaiian Home Lands; and~~

21               ~~“(3) any other objectively measurable condi-~~  
 22 ~~tions that the Secretary and the Director may speci-~~  
 23 ~~fy.~~

24       ~~“(c) OTHER FACTORS FOR CONSIDERATION.—In es-~~  
 25 ~~tablishing the formula under subsection (a), the Secretary~~  
 26 ~~shall consider the relative administrative capacities of the~~

1 Department of Hawaiian Home Lands and other chal-  
 2 lenges faced by the Department, including—

3       “(1) geographic distribution within Hawaiian  
 4       Home Lands; and

5       “(2) technical capacity.

6       “(d) EFFECTIVE DATE.—This section shall take ef-  
 7       fect on the date of enactment of the Native American  
 8       Housing Assistance and Self-Determination Amendments  
 9       of 1999.

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

11       “(a) ACTIONS BY SECRETARY AFFECTING GRANT  
 12       AMOUNTS.—

13       “(1) IN GENERAL.—Except as provided in sub-  
 14       section (b), if the Secretary finds after reasonable  
 15       notice and opportunity for a hearing that the De-  
 16       partment of Hawaiian Home Lands has failed to  
 17       comply substantially with any provision of this title,  
 18       the Secretary shall—

19               “(A) terminate payments under this title  
 20               to the Department;

21               “(B) reduce payments under this title to  
 22               the Department by an amount equal to the  
 23               amount of such payments that were not ex-  
 24               pended in accordance with this title; or

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

4           “(2) ACTIONS.—If the Secretary takes an ac-  
5           tion under subparagraph (A), (B), or (C) of para-  
6           graph (1), the Secretary shall continue that action  
7           until the Secretary determines that the failure by  
8           the Department to comply with the provision has  
9           been remedied by the Department and the Depart-  
10          ment is in compliance with that provision.

11          “(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL  
12          INCAPACITY.—The Secretary may provide technical assist-  
13          ance for the Department, either directly or indirectly, that  
14          is designed to increase the capability and capacity of the  
15          Director of the Department to administer assistance pro-  
16          vided under this title in compliance with the requirements  
17          under this title if the Secretary makes a finding under  
18          subsection (a), but determines that the failure of the De-  
19          partment to comply substantially with the provisions of  
20          this title—

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

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

25          “(c) REFERRAL FOR CIVIL ACTION.—

1           “(1) ~~AUTHORITY.~~—In lieu of, or in addition to,  
 2           any action that the Secretary may take under sub-  
 3           section (a); if the Secretary has reason to believe  
 4           that the Department of Hawaiian Home Lands has  
 5           failed to comply substantially with any provision of  
 6           this title, the Secretary may refer the matter to the  
 7           Attorney General of the United States with a rec-  
 8           ommendation that an appropriate civil action be in-  
 9           stituted.

10           “(2) ~~CIVIL ACTION.~~—Upon receiving a referral  
 11           under paragraph (1), the Attorney General may  
 12           bring a civil action in any United States district  
 13           court of appropriate jurisdiction for such relief as  
 14           may be appropriate, including an action—

15                   “(A) to recover the amount of the assist-  
 16                   ance furnished under this title that was not ex-  
 17                   pended in accordance with this title; or

18                   “(B) for mandatory or injunctive relief.

19           “(d) ~~REVIEW.~~—

20           “(1) ~~IN GENERAL.~~—If the Director receives no-  
 21           tice under subsection (a) of the termination, reduc-  
 22           tion, or limitation of payments under this Act, the  
 23           Director—

24                   “(A) may, not later than 60 days after re-  
 25                   ceiving such notice, file with the United States

1 Court of Appeals for the Ninth Circuit, or in  
 2 the United States Court of Appeals for the Dis-  
 3 trict of Columbia, a petition for review of the  
 4 action of the Secretary; and

5 “(B) upon the filing of any petition under  
 6 subparagraph (A), shall forthwith transmit cop-  
 7 ies of the petition to the Secretary and the At-  
 8 torney General of the United States, who shall  
 9 represent the Secretary in the litigation.

10 “(2) PROCEDURE.—

11 “(A) IN GENERAL.—The Secretary shall  
 12 file in the court a record of the proceeding on  
 13 which the Secretary based the action, as pro-  
 14 vided in section 2112 of title 28, United States  
 15 Code.

16 “(B) OBJECTIONS.—No objection to the  
 17 action of the Secretary shall be considered by  
 18 the court unless the Department has registered  
 19 the objection before the Secretary.

20 “(3) DISPOSITION.—

21 “(A) COURT PROCEEDINGS.—

22 “(i) JURISDICTION OF COURT.—The  
 23 court shall have jurisdiction to affirm or  
 24 modify the action of the Secretary or to set  
 25 the action aside in whole or in part.

1           “(ii) FINDINGS OF FACT.—If sup-  
 2           ported by substantial evidence on the  
 3           record considered as a whole, the findings  
 4           of fact by the Secretary shall be conclusive.

5           “(iii) ADDITION.—The court may  
 6           order evidence, in addition to the evidence  
 7           submitted for review under this subsection,  
 8           to be taken by the Secretary, and to be  
 9           made part of the record.

10          “(B) SECRETARY.—

11           “(i) IN GENERAL.—The Secretary, by  
 12           reason of the additional evidence referred  
 13           to in subparagraph (A) and filed with the  
 14           court—

15           “(I) may—

16           “(aa) modify the findings of  
 17           fact of the Secretary; or

18           “(bb) make new findings;  
 19           and

20           “(II) shall file—

21           “(aa) such modified or new  
 22           findings; and

23           “(bb) the recommendation  
 24           of the Secretary, if any, for the  
 25           modification or setting aside of

1 the original action of the Sec-  
2 retary.

3 “(ii) FINDINGS.—The findings re-  
4 ferred to in clause (i)(II)(bb) shall, with  
5 respect to a question of fact, be considered  
6 to be conclusive if those findings are—

7 “(I) supported by substantial evi-  
8 dence on the record; and

9 “(II) considered as a whole.

10 “(4) FINALITY.—

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

14 “(i) the jurisdiction of the court shall  
15 be exclusive; and

16 “(ii) the judgment of the court shall  
17 be final.

18 “(B) REVIEW BY SUPREME COURT.—A  
19 judgment under subparagraph (A) shall be sub-  
20 ject to review by the Supreme Court of the  
21 United States upon writ of certiorari or certifi-  
22 cation, as provided in section 1254 of title 28,  
23 United States Code.

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

25 “(a) ENFORCEABLE AGREEMENTS.—



1           “(1) IN GENERAL.—The Director, through  
2           binding contractual agreements with owners or other  
3           authorized entities, shall ensure long-term compli-  
4           ance with the provisions of this title.

5           “(2) MEASURES.—The measures referred to in  
6           paragraph (1) shall provide for—

7                   “(A) to the extent allowable by Federal  
8                   and State law, the enforcement of the provi-  
9                   sions of this title by the Department and the  
10                  Secretary; and

11                   “(B) remedies for breach of the provisions  
12                  referred to in paragraph (1).

13           “(b) PERIODIC MONITORING.—

14                   “(1) IN GENERAL.—Not less frequently than  
15                   annually, the Director shall review the activities con-  
16                   ducted and housing assisted under this title to as-  
17                   sess compliance with the requirements of this title.

18                   “(2) REVIEW.—Each review under paragraph  
19                   (1) shall include onsite inspection of housing to de-  
20                   termine compliance with applicable requirements.

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

23                           “(A) included in a performance report of  
24                           the Director submitted to the Secretary under  
25                           section 820; and

1                   ~~“(B) made available to the public.~~

2           ~~“(e) PERFORMANCE MEASURES.—The Secretary~~  
 3 ~~shall establish such performance measures as may be nec-~~  
 4 ~~essary to assess compliance with the requirements of this~~  
 5 ~~title.~~

6   **~~“SEC. 820. PERFORMANCE REPORTS.~~**

7           ~~“(a) REQUIREMENT.—For each fiscal year, the Di-~~  
 8 ~~rector shall—~~

9                   ~~“(1) review the progress the Department has~~  
 10 ~~made during that fiscal year in carrying out the~~  
 11 ~~housing plan submitted by the Department under~~  
 12 ~~section 803; and~~

13                   ~~“(2) submit a report to the Secretary (in a~~  
 14 ~~form acceptable to the Secretary) describing the con-~~  
 15 ~~clusions of the review.~~

16           ~~“(b) CONTENT.—Each report submitted under this~~  
 17 ~~section for a fiscal year shall—~~

18                   ~~“(1) describe the use of grant amounts provided~~  
 19 ~~to the Department of Hawaiian Home Lands for~~  
 20 ~~that fiscal year;~~

21                   ~~“(2) assess the relationship of the use referred~~  
 22 ~~to in paragraph (1) to the goals identified in the~~  
 23 ~~housing plan;~~

24                   ~~“(3) indicate the programmatic accomplish-~~  
 25 ~~ments of the Department; and~~

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

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

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

7           “(2) review each such report; and

8           “(3) with respect to each such report, make rec-  
 9           ommendations as the Secretary considers appro-  
 10          priate to carry out the purposes of this title.

11          “(d) PUBLIC AVAILABILITY.—

12          “(1) COMMENTS BY BENEFICIARIES.—In pre-  
 13          paring a report under this section, the Director shall  
 14          make the report publicly available to the bene-  
 15          ficiaries of the Hawaiian Homes Commission Act,  
 16          1920 (42 Stat. 108 et seq.) and give a sufficient  
 17          amount of time to permit those beneficiaries to com-  
 18          ment on that report before it is submitted to the  
 19          Secretary (in such manner and at such time as the  
 20          Director may determine).

21          “(2) SUMMARY OF COMMENTS.—The report  
 22          shall include a summary of any comments received  
 23          by the Director from beneficiaries under paragraph  
 24          (1) regarding the program to carry out the housing  
 25          plan.

1 **~~“SEC. 821. REVIEW AND AUDIT BY SECRETARY.~~**

2 ~~“(a) ANNUAL REVIEW.—~~

3 ~~“(1) IN GENERAL.—The Secretary shall, not~~  
 4 ~~less frequently than on an annual basis, make such~~  
 5 ~~reviews and audits as may be necessary or appro-~~  
 6 ~~priate to determine whether—~~

7 ~~“(A) the Director has—~~

8 ~~“(i) carried out eligible activities~~  
 9 ~~under this title in a timely manner;~~

10 ~~“(ii) carried out and made certifi-~~  
 11 ~~cations in accordance with the require-~~  
 12 ~~ments and the primary objectives of this~~  
 13 ~~title and with other applicable laws; and~~

14 ~~“(iii) a continuing capacity to carry~~  
 15 ~~out the eligible activities in a timely man-~~  
 16 ~~ner;~~

17 ~~“(B) the Director has complied with the~~  
 18 ~~housing plan submitted by the Director under~~  
 19 ~~section 803; and~~

20 ~~“(C) the performance reports of the De-~~  
 21 ~~partment under section 821 are accurate.~~

22 ~~“(2) ONSITE VISITS.—Each review conducted~~  
 23 ~~under this section shall, to the extent practicable, in-~~  
 24 ~~clude onsite visits by employees of the Department~~  
 25 ~~of Housing and Urban Development.~~

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

10       “(c) EFFECT OF REVIEWS.—The Secretary may  
 11 make appropriate adjustments in the amount of annual  
 12 grants under this title in accordance with the findings of  
 13 the Secretary pursuant to reviews and audits under this  
 14 section. The Secretary may adjust, reduce, or withdraw  
 15 grant amounts, or take other action as appropriate in ac-  
 16 cordance with the reviews and audits of the Secretary  
 17 under this section, except that grant amounts already ex-  
 18 pended on affordable housing activities may not be recap-  
 19 tured or deducted from future assistance provided to the  
 20 Department of Hawaiian Home Lands.

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

22       “‘To the extent that the financial transactions of the  
 23 Department of Hawaiian Home Lands involving grant  
 24 amounts under this title relate to amounts provided under  
 25 this title, those transactions may be audited by the Comp-

1 troller General of the United States under such regula-  
 2 tions as may be prescribed by the Comptroller General.  
 3 The Comptroller General of the United States shall have  
 4 access to all books, accounts, records, reports, files, and  
 5 other papers, things, or property belonging to or in use  
 6 by the Department of Hawaiian Home Lands pertaining  
 7 to such financial transactions and necessary to facilitate  
 8 the audit.

9 **~~“SEC. 823. REPORTS TO CONGRESS.~~**

10 ~~“(a) IN GENERAL.—Not later than 90 days after the~~  
 11 ~~conclusion of each fiscal year in which assistance under~~  
 12 ~~this title is made available, the Secretary shall submit to~~  
 13 ~~the Congress a report that contains—~~

14 ~~“(1) a description of the progress made in ac-~~  
 15 ~~complishing the objectives of this title;~~

16 ~~“(2) a summary of the use of funds available~~  
 17 ~~under this title during the preceding fiscal year; and~~

18 ~~“(3) a description of the aggregate outstanding~~  
 19 ~~loan guarantees under section 184A of the Housing~~  
 20 ~~and Community Development Act of 1992.~~

21 ~~“(b) RELATED REPORTS.—The Secretary may re-~~  
 22 ~~quire the Director to submit to the Secretary such reports~~  
 23 ~~and other information as may be necessary in order for~~  
 24 ~~the Secretary to prepare the report required under sub-~~  
 25 ~~section (a).~~

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

2       “There are authorized to be appropriated to the De-  
3 partment of Housing and Urban Development for grants  
4 under this title such sums as may be necessary for each  
5 of fiscal years 2000, 2001, 2002, 2003, and 2004.”.

6 **SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUS-**  
7 **ING.**

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

11 **“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN**  
12 **HOUSING.**

13       “(a) DEFINITIONS.—In this section:

14           “(1) DEPARTMENT OF HAWAIIAN HOME  
15 LANDS.—The term ‘Department of Hawaiian Home  
16 Lands’ means the agency or department of the gov-  
17 ernment of the State of Hawaii that is responsible  
18 for the administration of the Hawaiian Homes Com-  
19 mission Act, 1920 (42 Stat. 108 et seq.).

20           “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
21 tity’ means a Native Hawaiian family, the Depart-  
22 ment of Hawaiian Home Lands, the Office of Ha-  
23 waiian Affairs, private nonprofit or for profit organi-  
24 zations experienced in the planning and development  
25 of affordable housing for Native Hawaiians.

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

4           ~~“(4) GUARANTEE FUND.—The term ‘Guarantee~~  
 5           ~~Fund’ means the Native Hawaiian Housing Loan~~  
 6           ~~Guarantee Fund established under subsection (i).~~

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

9                     ~~“(A) have the status of Hawaiian Home~~  
 10           ~~Lands under section 204 of the Hawaiian~~  
 11           ~~Homes Commission Act (42 Stat. 110); or~~

12                    ~~“(B) are acquired pursuant to that Act.~~

13           ~~“(6) NATIVE HAWAIIAN.—The term ‘Native~~  
 14           ~~Hawaiian’ has the meaning given the term ‘native~~  
 15           ~~Hawaiian’ in section 201 of the Hawaiian Homes~~  
 16           ~~Commission Act, 1920 (42 Stat. 108 et seq.).~~

17           ~~“(7) OFFICE OF HAWAIIAN AFFAIRS.—The~~  
 18           ~~term ‘Office of Hawaiian Affairs’ means the entity~~  
 19           ~~of that name established under the constitution of~~  
 20           ~~the State of Hawaii.~~

21           ~~“(b) AUTHORITY.—To provide access to sources of~~  
 22           ~~private financing to Native Hawaiian families who other-~~  
 23           ~~wise could not acquire housing financing because of the~~  
 24           ~~unique legal status of the Hawaiian home lands or as a~~  
 25           ~~result of a lack of access to private financial markets; the~~



1 Secretary may guarantee an amount not to exceed 100  
 2 percent of the unpaid principal and interest that is due  
 3 on an eligible loan under subsection (b).

4 “(c) ELIGIBLE LOANS.—Under this section, a loan  
 5 is an eligible loan if that loan meets the following require-  
 6 ments:

7 “(1) ELIGIBLE BORROWERS.—The loan is made  
 8 only to a borrower who—

9 “(A) is a Native Hawaiian family;

10 “(B) the Department of Hawaiian Home  
 11 Lands;

12 “(C) the Office of Hawaiian Affairs; or

13 “(D) a private nonprofit organization expe-  
 14 rienced in the planning and development of af-  
 15 fordable housing for Native Hawaiians.

16 “(2) ELIGIBLE HOUSING.—

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

23 “(B) HOUSING PLAN.—A housing plan de-  
 24 scribed in this subparagraph is a housing plan  
 25 that—

1                   “(i) has been submitted and approved  
 2                   by the Secretary under section 803 of the  
 3                   Native American Housing Assistance and  
 4                   Self-Determination Amendments of 1999;  
 5                   and

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

10                  “(3) SECURITY.—The loan may be secured by  
 11                  any collateral authorized under applicable Federal  
 12                  law or State law.

13                  “(4) LENDERS.—

14                  “(A) IN GENERAL.—The loan shall be  
 15                  made only by a lender approved by, and meet-  
 16                  ing qualifications established by, the Secretary,  
 17                  including any lender described in subparagraph  
 18                  (B), except that a loan otherwise insured or  
 19                  guaranteed by an agency of the Federal Gov-  
 20                  ernment or made by the Department of Hawai-  
 21                  ian Home Lands from amounts borrowed from  
 22                  the United States shall not be eligible for a  
 23                  guarantee under this section.

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

4           “(i) Any mortgagee approved by the  
5 Secretary for participation in the single  
6 family mortgage insurance program under  
7 title II of the National Housing Act (42  
8 U.S.C.A. 1707 et seq.):

9           “(ii) Any lender that makes housing  
10 loans under chapter 37 of title 38, United  
11 States Code, that are automatically guar-  
12 anteed under section 3702(d) of title 38,  
13 United States Code:

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

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

22           “(5) TERMS.—The loan shall—

23           “(A) be made for a term not exceeding 30  
24 years;

1           “(B) bear interest (exclusive of the guar-  
 2           antee fee under subsection (d) and service  
 3           charges, if any) at a rate agreed upon by the  
 4           borrower and the lender and determined by the  
 5           Secretary to be reasonable, but not to exceed  
 6           the rate generally charged in the area (as deter-  
 7           mined by the Secretary) for home mortgage  
 8           loans not guaranteed or insured by any agency  
 9           or instrumentality of the Federal Government;

10           “(C) involve a principal obligation not  
 11           exceeding—

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

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

19           “(D) involve a payment on account of the  
 20           property—

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

22           “(ii) through the value of any im-  
 23           provements to the property made through  
 24           the skilled or unskilled labor of the bor-  
 25           rower, as the Secretary shall provide.

1       “(d) CERTIFICATE OF GUARANTEE.—

2               “(1) APPROVAL PROCESS.—

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

7                       “(B) APPROVAL.—If the Secretary ap-  
8                       proves the application submitted under sub-  
9                       paragraph (A), the Secretary shall issue a cer-  
10                      tificate under this subsection as evidence of the  
11                      loan guarantee approved.

12                     “(2) STANDARD FOR APPROVAL.—The Sec-  
13                     retary may approve a loan for guarantee under this  
14                     section and issue a certificate under this subsection  
15                     only if the Secretary determines that there is a rea-  
16                     sonable prospect of repayment of the loan.

17                     “(3) EFFECT.—

18                               “(A) IN GENERAL.—A certificate of guar-  
19                               antee issued under this subsection by the Sec-  
20                               retary shall be conclusive evidence of the eligi-  
21                               bility of the loan for guarantee under this sec-  
22                               tion and the amount of that guarantee.

23                               “(B) EVIDENCE.—The evidence referred to  
24                               in subparagraph (A) shall be incontestable in  
25                               the hands of the bearer.

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

6           “(4) ~~FRAUD AND MISREPRESENTATION.~~—This  
 7           subsection may not be construed—

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

12          “(B) to bar the Secretary from estab-  
 13          lishing by regulations that are on the date of  
 14          issuance or disbursement, whichever is earlier,  
 15          partial defenses to the amount payable on the  
 16          guarantee.

17          “(e) ~~GUARANTEE FEE.~~—

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

23          “(2) ~~PAYMENT.~~—The fee under this subsection  
 24          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  
7           any fees collected under this subsection in the Na-  
8           tive Hawaiian Housing Loan Guarantee Fund estab-  
9           lished 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  
13          decrease or increase in the amount of the unpaid obliga-  
14          tion under the provisions of the loan agreement involved.

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

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

24          “(1) IN GENERAL.—

“(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

“(i) has failed—

“(I) to maintain adequate accounting records;

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

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

“(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

“(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

“(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;



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

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

9           “(2) CIVIL MONEY PENALTIES FOR INTEN-  
10          TIONAL VIOLATIONS.—

11           “(A) IN GENERAL.—The Secretary may  
12           impose a civil monetary penalty on a lender or  
13           holder of a guarantee certificate under sub-  
14           section (d) if the Secretary determines that the  
15           holder or 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 Hous-

1           ing Act (~~12 U.S.C.A. 1735f-1~~) with respect to  
2           mortgagees 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  
6           not refuse to pay a lender or holder of a valid guar-  
7           antee on that loan, without regard to whether the  
8           lender or holder is barred under this subsection.

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

10          ~~“(1) LENDER OPTIONS.—~~

11          ~~“(A) IN GENERAL.—~~

12          ~~“(i) NOTIFICATION.—If borrower on a~~  
13          loan guaranteed under this section defaults  
14          on the loan, the holder of the guarantee  
15          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 enti-  
20          tled to payment under the guarantee (sub-  
21          ject to the provisions of this section) and  
22          may proceed to obtain payment in 1 of the  
23          following manners:

24          ~~“(I) FORECLOSURE.—~~

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

6                   “(bb) PAYMENT.—Upon a  
 7 final order by the court author-  
 8 izing foreclosure and submission  
 9 to the Secretary of a claim for  
 10 payment under the guarantee,  
 11 the Secretary shall pay to the  
 12 holder of the certificate the pro  
 13 rata portion of the amount guar-  
 14 anteed (as determined pursuant  
 15 to subsection (f)) plus reasonable  
 16 fees and expenses as approved by  
 17 the Secretary.

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

24                   “(H) NO FORECLOSURE.—

1           “(aa) IN GENERAL.—With-  
2           out seeking foreclosure (or in any  
3           case in which a foreclosure pro-  
4           ceeding initiated under clause (i)  
5           continues for a period in excess  
6           of 1 year); the holder of the  
7           guarantee may submit to the  
8           Secretary a request to assign the  
9           obligation and security interest to  
10          the Secretary in return for pay-  
11          ment of the claim under the  
12          guarantee. The Secretary may  
13          accept assignment of the loan if  
14          the Secretary determines that the  
15          assignment is in the best interest  
16          of the United States.

17          “(bb) PAYMENT.—Upon as-  
18          signment, the Secretary shall pay  
19          to the holder of the guarantee  
20          the pro rata portion of the  
21          amount guaranteed (as deter-  
22          mined under 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  
 2 holder shall assign the obligation  
 3 and security to the Secretary.

4 “(B) REQUIREMENTS.—Before any pay-  
 5 ment under a guarantee is made under sub-  
 6 paragraph (A), the holder of the guarantee  
 7 shall exhaust all reasonable possibilities of col-  
 8 lection. Upon payment, in whole or in part, to  
 9 the holder, the note or judgment evidencing the  
 10 debt shall be assigned to the United States and  
 11 the holder shall have no further claim against  
 12 the borrower or the United States. The Sec-  
 13 retary shall then take such action to collect as  
 14 the Secretary determines 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  
 20 Secretary shall only pursue liquidation after of-  
 21 fering to transfer the account to another eligi-  
 22 ble Hawaiian family or the Department of Ha-  
 23 waiian Home Lands.

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

or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

~~“(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—~~

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

~~“(2) CREDITS.—The Guarantee Fund shall be credited with—~~

~~“(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;~~

~~“(B) any amounts appropriated pursuant to paragraph (7);~~

~~“(C) any guarantee fees collected under subsection (d); and~~

~~“(D) any interest or earnings on amounts 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  
9           loans;

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

17                   “(C) acquiring such security property at  
18           foreclosure sales or otherwise;

19                   “(D) paying administrative expenses in  
20           connection with this section; and

21                   “(E) reasonable and necessary costs of re-  
22           habilitation and repair to properties that the  
23           Secretary holds or owns pursuant to this sec-  
24           tion.

1           ~~“(4) INVESTMENT.—Any amounts in the Guar-~~  
 2           ~~antee Fund determined by the Secretary to be in ex-~~  
 3           ~~cess of amounts currently required at the time of the~~  
 4           ~~determination to carry out this section may be in-~~  
 5           ~~vested in obligations of the United States.~~

6           ~~“(5) LIMITATION ON COMMITMENTS TO GUAR-~~  
 7           ~~ANTEE LOANS AND MORTGAGES.—~~

8           ~~“(A) REQUIREMENT OF APPROPRIA-~~  
 9           ~~TIONS.—The authority of the Secretary to enter~~  
 10           ~~into commitments to guarantee loans under this~~  
 11           ~~section shall be effective for any fiscal year to~~  
 12           ~~the extent, or in such amounts as, are or have~~  
 13           ~~been provided in appropriations Acts, without~~  
 14           ~~regard to the fiscal year for which such~~  
 15           ~~amounts were appropriated.~~

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



1 amounts appropriated pursuant to this subpara-  
 2 graph shall remain available until expended.

3 ~~“(C) LIMITATION ON OUTSTANDING AG-~~  
 4 ~~GREGATE PRINCIPAL AMOUNT.—~~Subject to the  
 5 limitations in subparagraphs (A) and (B), the  
 6 Secretary may enter into commitments to guar-  
 7 antee loans under this section for each of fiscal  
 8 years 2000, 2001, 2002, 2003, and 2004 with  
 9 an aggregate outstanding principal amount not  
 10 exceeding \$100,000,000 for each such fiscal  
 11 year.

12 ~~“(6) LIABILITIES.—~~All liabilities and obliga-  
 13 tions of the assets credited to the Guarantee Fund  
 14 under paragraph (2)(A) shall be liabilities and obli-  
 15 gations of the Guarantee Fund.

16 ~~“(7) AUTHORIZATION OF APPROPRIATIONS.—~~  
 17 There are authorized to be appropriated to the  
 18 Guarantee Fund to carry out this section such sums  
 19 as may be necessary for each of fiscal years 2000,  
 20 2001, 2002, 2003, and 2004.

21 ~~“(k) REQUIREMENTS FOR STANDARD HOUSING.—~~

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

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

3           “(A) provide sufficient flexibility to permit  
4       the use of various designs and materials in  
5       housing acquired with loans guaranteed under  
6       this section; and

7           “(B) require each dwelling unit in any  
8       housing acquired in the manner described in  
9       subparagraph (A) to—

10           “(i) be decent, safe, sanitary, and  
11       modest in size and design;

12           “(ii) conform with applicable general  
13       construction standards for the region in  
14       which the housing is located;

15           “(iii) contain a plumbing system  
16       that—

17           “(I) uses a properly installed sys-  
18       tem of piping;

19           “(II) includes a kitchen sink and  
20       a partitioned bathroom with lavatory,  
21       toilet, and bath or shower; and

22           “(III) uses water supply, plumb-  
23       ing, and sewage disposal systems that  
24       conform to any minimum standards

1                   established by the applicable county or  
2                   State;

3                   “(iv) contain an electrical system  
4                   using wiring and equipment properly in-  
5                   stalled to safely supply electrical energy for  
6                   adequate lighting and for operation of ap-  
7                   pliances that conforms to any appropriate  
8                   county, State, or national code;

9                   “(v) be not less than the size provided  
10                  under the applicable locally adopted stand-  
11                  ards for size of dwelling units, except that  
12                  the Secretary, upon request of the Depart-  
13                  ment of Hawaiian Home Lands may waive  
14                  the size requirements under this para-  
15                  graph; and

16                  “(vi) conform with the energy per-  
17                  formance requirements for new construc-  
18                  tion established by the Secretary under  
19                  section 526(a) of the National Housing  
20                  Act (12 U.S.C.A. 1735f-4), unless the Sec-  
21                  retary determines that the requirements  
22                  are not applicable.

23                  “(f) APPLICABILITY OF CIVIL RIGHTS STATUTES.—  
24                  To the extent that the requirements of title VI of the Civil  
25                  Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title

1 VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et  
 2 seq.) apply to a guarantee provided under this subsection;  
 3 nothing in the requirements concerning discrimination on  
 4 the basis of race shall be construed to prevent the provi-  
 5 sion of the guarantee to an eligible entity on the basis  
 6 that the entity serves Native Hawaiian families or is a Na-  
 7 tive Hawaiian family.”

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Native American Hous-*  
 10 *ing Assistance and Self-Determination Amendments of*  
 11 *1999”.*

12 **SEC. 2. FINDINGS.**

13 *Congress finds that—*

14 *(1) the United States has undertaken a responsi-*  
 15 *bility to promote the general welfare of the United*  
 16 *States by—*

17 *(A) employing its resources to remedy the*  
 18 *unsafe and unsanitary housing conditions and*  
 19 *the acute shortage of decent, safe, and sanitary*  
 20 *dwellings for families of lower income; and*

21 *(B) developing effective partnerships with*  
 22 *governmental and private entities to accomplish*  
 23 *the objectives referred to in subparagraph (A);*

1           (2) *the United States has a special responsibility*  
2           *for the welfare of the Native peoples of the United*  
3           *States, including Native Hawaiians;*

4           (3) *pursuant to the provisions of the Hawaiian*  
5           *Homes Commission Act, 1920 (42 Stat. 108 et seq.),*  
6           *the United States set aside 200,000 acres of land in*  
7           *the Federal territory that later became the State of*  
8           *Hawaii in order to establish a homeland for the na-*  
9           *tive people of Hawaii—Native Hawaiians;*

10          (4) *despite the intent of Congress in 1920 to ad-*  
11          *dress the housing needs of Native Hawaiians through*  
12          *the enactment of the Hawaiian Homes Commission*  
13          *Act, 1920 (42 Stat. 108 et seq.), Native Hawaiians el-*  
14          *igible to reside on the Hawaiian home lands have*  
15          *been foreclosed from participating in Federal housing*  
16          *assistance programs available to all other eligible*  
17          *families in the United States;*

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

23          (6) *among the Native American population of*  
24          *the United States, Native Hawaiians experience the*

1       *highest percentage of housing problems in the United*  
 2       *States, as the percentage—*

3               *(A) of housing problems in the Native Ha-*  
 4               *waiian population is 49 percent, as compared*  
 5               *to—*

6                   *(i) 44 percent for American Indian*  
 7                   *and Alaska Native households in Indian*  
 8                   *country; and*

9                   *(ii) 27 percent for all other households*  
 10                  *in the United States; and*

11               *(B) overcrowding in the Native Hawaiian*  
 12               *population is 36 percent as compared to 3 per-*  
 13               *cent for all other households in the United*  
 14               *States;*

15               *(7) among the Native Hawaiian population, the*  
 16               *needs of Native Hawaiians, as that term is defined in*  
 17               *section 801 of the Native American Housing Assist-*  
 18               *ance and Self-Determination Act of 1996, as added by*  
 19               *section 3 of this Act, eligible to reside on the Hawai-*  
 20               *ian Home Lands are the most severe, as—*

21                   *(A) the percentage of overcrowding in Na-*  
 22                   *tive Hawaiian households on the Hawaiian*  
 23                   *Home Lands is 36 percent; and*

24                   *(B) approximately 13,000 Native Hawai-*  
 25                   *ians, which constitute 95 percent of the Native*

1           *Hawaiians who are eligible to reside on the Ha-*  
 2           *waiian Home Lands, are in need of housing;*

3           *(8) applying the Department of Housing and*  
 4           *Urban Development guidelines—*

5                   *(A) 70.8 percent of Native Hawaiians who*  
 6                   *either reside or who are eligible to reside on the*  
 7                   *Hawaiian Home Lands have incomes that fall*  
 8                   *below the median family income; and*

9                   *(B) 50 percent of Native Hawaiians who ei-*  
 10                  *ther reside or who are eligible to reside on the*  
 11                  *Hawaiian Home Lands have incomes below 30*  
 12                  *percent of the median family income;*

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

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

1           (11) *consistent with the recommendations of the*  
2           *National Commission on American Indian, Alaska*  
3           *Native, and Native Hawaiian Housing, and in order*  
4           *to address the continuing prevalence of extraor-*  
5           *ordinarily severe housing needs among Native Hawai-*  
6           *ians who either reside or are eligible to reside on the*  
7           *Hawaiian Home Lands, Congress finds it necessary*  
8           *to extend the Federal low-income housing assistance*  
9           *available to American Indians and Alaska Natives*  
10          *under the Native American Housing Assistance and*  
11          *Self-Determination Act of 1996 (25 U.S.C. 4101 et*  
12          *seq.) to those Native Hawaiians;*

13          (12) *under the treaty-making power of the United*  
14          *States, Congress had the constitutional authority to*  
15          *confirm a treaty between the United States and the*  
16          *government that represented the Hawaiian people,*  
17          *and from 1826 until 1893, the United States recog-*  
18          *nized the independence of the Kingdom of Hawaii, ex-*  
19          *tended full diplomatic recognition to the Hawaiian*  
20          *Government, and entered into treaties and conven-*  
21          *tions with the Hawaiian monarchs to govern com-*  
22          *merce and navigation in 1826, 1842, 1849, 1875, and*  
23          *1887;*

24          (13) *the United States has recognized and re-*  
25          *affirmed that—*



1           (A) *Native Hawaiians have a cultural, his-*  
 2           *toric, and land-based link to the indigenous peo-*  
 3           *ple who exercised sovereignty over the Hawaiian*  
 4           *Islands, and that group has never relinquished*  
 5           *its claims to sovereignty or its sovereign lands;*

6           (B) *Congress does not extend services to Na-*  
 7           *tive Hawaiians because of their race, but because*  
 8           *of their unique status as the indigenous people of*  
 9           *a once sovereign nation as to whom the United*  
 10          *States has established a trust relationship;*

11          (C) *Congress has also delegated broad au-*  
 12          *thority to administer a portion of the Federal*  
 13          *trust responsibility to the State of Hawaii;*

14          (D) *the political status of Native Hawai-*  
 15          *ians is comparable to that of American Indians*  
 16          *and Alaska Natives; and*

17          (E) *the aboriginal, indigenous people of the*  
 18          *United States have—*

19               (i) *a continuing right to autonomy in*  
 20               *their internal affairs; and*

21               (ii) *an ongoing right of self-determina-*  
 22               *tion and self-governance that has never been*  
 23               *extinguished;*

24          (14) *the political relationship between the United*  
 25          *States and the Native Hawaiian people has been rec-*

1        *ognized and reaffirmed by the United States as evi-*  
 2        *denced by the inclusion of Native Hawaiians in—*

3                *(A) the Native American Programs Act of*  
 4                *1974 (42 U.S.C. 2291 et seq.);*

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

7                *(C) the National Museum of the American*  
 8                *Indian Act (20 U.S.C. 80q et seq.);*

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

11                *(E) the National Historic Preservation Act*  
 12                *(16 U.S.C. 470 et seq.);*

13                *(F) the Native American Languages Act of*  
 14                *1992 (106 Stat. 3434);*

15                *(G) the American Indian, Alaska Native*  
 16                *and Native Hawaiian Culture and Arts Develop-*  
 17                *ment Act (20 U.S.C. 4401 et seq.);*

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

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

22                *(15) in the area of housing, the United States*  
 23        *has recognized and reaffirmed the political relation-*  
 24        *ship with the Native Hawaiian people through—*

1           (A) the enactment of the Hawaiian Homes  
 2           Commission Act, 1920 (42 Stat. 108 et seq.),  
 3           which set aside approximately 200,000 acres of  
 4           public lands that became known as Hawaiian  
 5           Home Lands in the Territory of Hawaii that  
 6           had been ceded to the United States for home-  
 7           steading by Native Hawaiians in order to reha-  
 8           bilitate a landless and dying people;

9           (B) the enactment of the Act entitled “An  
 10          Act to provide for the admission of the State of  
 11          Hawaii into the Union”, approved March 18,  
 12          1959 (73 Stat. 4)—

13           (i) by ceding to the State of Hawaii  
 14           title to the public lands formerly held by the  
 15           United States, and mandating that those  
 16           lands be held in public trust, for the better-  
 17           ment of the conditions of Native Hawaiians,  
 18           as that term is defined in section 201 of the  
 19           Hawaiian Homes Commission Act, 1920  
 20           (42 Stat. 108 et seq.); and

21           (ii) by transferring the United States  
 22           responsibility for the administration of Ha-  
 23           waiian Home Lands to the State of Ha-  
 24           waii, but retaining the authority to enforce  
 25           the trust, including the exclusive right of the

1           *United States to consent to any actions af-*  
2           *fecting the lands which comprise the corpus*  
3           *of the trust and any amendments to the Ha-*  
4           *waiian Homes Commission Act, 1920 (42*  
5           *Stat. 108 et seq.), enacted by the legislature*  
6           *of the State of Hawaii affecting the rights*  
7           *of beneficiaries under the Act;*

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

15          *(D) authorizing Native Hawaiian represen-*  
16          *tation on the National Commission on American*  
17          *Indian, Alaska Native, and Native Hawaiian*  
18          *Housing under Public Law 101–235;*

19          *(E) the inclusion of Native Hawaiians in*  
20          *the definition under section 3764 of title 38,*  
21          *United States Code, applicable to subchapter V*  
22          *of chapter 37 of title 38, United States Code (re-*  
23          *lating to a housing loan program for Native*  
24          *American veterans); and*

1                   (F) the enactment of the Hawaiian Home  
 2                   Lands Recovery Act (109 Stat. 357; 48 U.S.C.  
 3                   491, note prec.) which establishes a process for  
 4                   the conveyance of Federal lands to the Depart-  
 5                   ment of Hawaiian Homes Lands that are equiv-  
 6                   alent in value to lands acquired by the United  
 7                   States from the Hawaiian Home Lands inven-  
 8                   tory.

9   **SEC. 3. HOUSING ASSISTANCE.**

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

13   **“TITLE VIII—HOUSING ASSIST-**  
 14           **ANCE FOR NATIVE HAWAI-**  
 15           **ANS**

16   **“SEC. 801. DEFINITIONS.**

17           *“In this title:*

18                   “(1) DEPARTMENT OF HAWAIIAN HOME LANDS;  
 19                   DEPARTMENT.—The term ‘Department of Hawaiian  
 20                   Home Lands’ or ‘Department’ means the agency or  
 21                   department of the government of the State of Hawaii  
 22                   that is responsible for the administration of the Ha-  
 23                   waiian Homes Commission Act, 1920 (42 Stat. 108  
 24                   et seq.).

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

4           “(3) *ELDERLY FAMILIES; NEAR-ELDERLY FAMI-*  
5           *LIES*.—

6           “(A) *IN GENERAL*.—The term ‘elderly fam-  
7           *ily’ or ‘near-elderly family’ means a family*  
8           *whose head (or his or her spouse), or whose sole*  
9           *member, is—*

10           “(i) *for an elderly family, an elderly*  
11           *person; or*

12           “(ii) *for a near-elderly family, a near-*  
13           *elderly person.*

14           “(B) *CERTAIN FAMILIES INCLUDED*.—The  
15           *term ‘elderly family’ or ‘near-elderly family’*  
16           *includes—*

17           “(i) *2 or more elderly persons or near-*  
18           *elderly persons, as the case may be, living*  
19           *together; and*

20           “(ii) *1 or more persons described in*  
21           *clause (i) living with 1 or more persons de-*  
22           *termined under the housing plan to be es-*  
23           *sential to their care or well-being.*

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

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

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

5           “(5) *HOUSING AREA*.—The term ‘housing area’  
6           means an area of Hawaiian Home Lands with re-  
7           spect to which the Department of Hawaiian Home  
8           Lands is authorized to provide assistance for afford-  
9           able housing under this Act.

10          “(6) *HOUSING ENTITY*.—The term ‘housing enti-  
11          ty’ means the Department of Hawaiian Home Lands.

12          “(7) *HOUSING PLAN*.—The term ‘housing plan’  
13          means a plan developed by the Department of Hawai-  
14          ian Home Lands.

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

18                 “(A) the median income for the Hawaiian  
19                 housing area, which shall be determined by the  
20                 Secretary; or

21                 “(B) the median income for the State of  
22                 Hawaii.

23          “(9) *NATIVE HAWAIIAN*.—The term ‘Native Ha-  
24          waiian’ means any individual who is—

25                 “(A) a citizen of the United States; and

1           “(B) a descendant of the aboriginal people,  
 2           who, prior to 1778, occupied and exercised sov-  
 3           ereignty in the area that currently constitutes  
 4           the State of Hawaii, as evidenced by—

5                   “(i) genealogical records;

6                   “(ii) verification by kupuna (elders) or  
 7                   kama’aina (long-term community resi-  
 8                   dents); or

9                   “(iii) birth records of the State of Ha-  
 10                  waii.

11   **“SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING**  
 12           **ACTIVITIES.**

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

19           “(b) *PLAN REQUIREMENT.*—

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

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



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

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

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

17          “(d) *ADMINISTRATIVE EXPENSES.—*

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

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

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

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

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

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

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

21                   “(2) *EXCEPTION.*—*The Secretary may make ex-*  
 22                   *ceptions to, or modifications of, program require-*  
 23                   *ments for Native American housing assistance set*  
 24                   *forth in titles I, II, and IV as necessary and appro-*

1        *priate to meet the unique situation and housing needs*  
 2        *of Native Hawaiians.*

3    **“SEC. 803. HOUSING PLAN.**

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

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

7            *“(2) provide for the review of each plan sub-*  
 8        *mitted under paragraph (1).*

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

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

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

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

21            *“(B) GOAL AND OBJECTIVES.—A statement*  
 22        *of the goals and objectives of the Department of*  
 23        *Hawaiian Home Lands to enable the Depart-*  
 24        *ment to serve the needs identified in subpara-*  
 25        *graph (A) during the period.*

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

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

8           “(1) be in a form prescribed by the Secretary;  
 9           and

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

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

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

21                   “(i) a description of the estimated  
 22                   housing needs and the need for assistance  
 23                   for the low-income families to be served by  
 24                   the Department, including a description of

1           *the manner in which the geographical dis-*  
 2           *tribution of assistance is consistent with—*

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

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

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

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

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

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

24                                     *“(I) eligible and required afford-*  
 25                                     *able housing activities; and*

1                   “(II) administrative expenses.

2                   “(D) AFFORDABLE HOUSING RESOURCES.—  
3           *A statement of the affordable housing resources*  
4           *currently available at the time of the submittal*  
5           *of the plan and to be made available during the*  
6           *period covered by the plan, including—*

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

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

17                   “(I) rental assistance;

18                   “(II) the production of new units;

19                   “(III) the acquisition of existing  
20                  *units; or*

21                   “(IV) the rehabilitation of units;

22                   “(iii) a description of the structure, co-  
23                  *ordination, and means of cooperation be-*  
24                  *tween the Department of Hawaiian Home*  
25                  *Lands and any other governmental entities*

1           *in the development, submission, or imple-*  
2           *mentation of housing plans, including a de-*  
3           *scription of—*

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

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

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

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

18                    “(v) *a description of—*

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

23                             “(II) *the requirements and assist-*  
24                             *ance available under the programs re-*  
25                             *ferred to in subclause (I);*

1 “(vi) a description of—

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

7 “(II) the requirements and assist-  
8 ance available under the programs re-  
9 ferred to in subclause (I);

10 “(vii) a description of—

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

16 “(aa) transitional housing;

17 “(bb) homeless housing;

18 “(cc) college housing; and

19 “(dd) supportive services  
20 housing; and

21 “(II) the requirements and assist-  
22 ance available under such programs;

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



1                   “(II) a timetable for that demolition or  
2                   disposition; and

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

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

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

17                         “(I) promote the safety of resi-  
18                         dents of the affordable housing;

19                         “(II) facilitate the undertaking of  
20                         crime prevention measures;

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

24                         “(IV) allow for the coordination of  
25                         crime prevention activities between the

1                    *Department and local law enforcement*  
 2                    *officials; and*

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

7                    “(E) CERTIFICATION OF COMPLIANCE.—  
 8                    *Evidence of compliance that shall include, as*  
 9                    *appropriate—*

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

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

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

22                    “(ii) a certification that the Depart-  
 23                    *ment will require adequate insurance cov-*  
 24                    *erage for housing units that are owned and*  
 25                    *operated or assisted with grant amounts*

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

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

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

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

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

24           “(1) *IN GENERAL.—To the extent that the re-*  
 25           *quirements of title VI of the Civil Rights Act of 1964*

1       (42 U.S.C. 2000d et seq.) or of title VIII of the Act  
 2       popularly known as the ‘Civil Rights Act of 1968’ (42  
 3       U.S.C. 3601 et seq.) apply to assistance provided  
 4       under this title, nothing in the requirements con-  
 5       cerning discrimination on the basis of race shall be  
 6       construed to prevent the provision of assistance under  
 7       this title—

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

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

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

19              “(e) USE OF NONPROFIT ORGANIZATIONS.—As a con-  
 20      dition of receiving grant amounts under this title, the De-  
 21      partment of Hawaiian Home Lands shall, to the extent  
 22      practicable, provide for private nonprofit organizations ex-  
 23      perienced in the planning and development of affordable  
 24      housing for Native Hawaiians to carry out affordable hous-  
 25      ing activities with those grant amounts.

1 **“SEC. 804. REVIEW OF PLANS.**

2 “(a) *REVIEW AND NOTICE.*—

3 “(1) *REVIEW.*—

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

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

13 “(2) *NOTICE.*—

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

20 “(B) *EFFECT OF FAILURE OF SECRETARY*  
 21 *TO TAKE ACTION.*—*For purposes of this title, if*  
 22 *the Secretary does not notify the Director, as re-*  
 23 *quired under this subsection and subsection (b),*  
 24 *upon the expiration of the 60-day period de-*  
 25 *scribed in subparagraph (A)—*

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

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

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

11                   “(1) the reasons for noncompliance; and

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

14           “(c) REVIEW.—

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

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

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

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

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

11                  “(d) *UPDATES TO PLAN.*—

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

22                  “(2) *COMPLETE PLANS.*—The Director shall sub-  
23                  mit a complete plan under section 803 not later than  
24                  4 years after submitting an initial plan under that

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

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

10           “(a) *PROGRAM INCOME*.—

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

“(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

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

21 “(2) *PROHIBITION OF REDUCTION OF GRANT.*—  
22 *The Secretary may not reduce the grant amount for*  
23 *the Department of Hawaiian Home Lands based sole-*  
24 *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 indi-  
 13          vidual who performs the services for which the indi-  
 14          vidual volunteered and who is not otherwise employed  
 15          at any time in the construction work and received no  
 16          compensation or is paid expenses, reasonable benefits,  
 17          or 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 responsi-*  
 19           *bility assumed by the Department of Hawaiian Home*  
 20           *Lands for grant amounts with respect to any specific*  
 21           *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 releases of funds for projects*  
 14       *that 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 to accept 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 October 1, 1999.*

15    **“SEC. 808. EFFECTIVE DATE.**

16        *“Except as otherwise expressly provided in this title,*  
 17        *this title shall take effect on October 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*  
 24                   *include—*

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,  
11 including—

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 provisions 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;

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

12 "SEC. 813. *LOW-INCOME REQUIREMENT AND INCOME TAR-*  
13 *GETING.*

16 “(1) each dwelling unit in the housing—

21                   “(B) in the case of housing for homeowner-  
22                   ship, is made available for purchase only by a  
23                   family that is a low-income family at the time  
24                   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, or 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 of  
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 819(a)(2)); 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 1999, 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 1999.*

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           *capacity 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-*

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

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

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

“(2) *PROCEDURE.*—

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

“(B) *OBJECTIONS.*—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

“(3) *DISPOSITION.*—

“(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 pre-  
18           paring 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 *ancial 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 Con-*  
 17 *gress 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 2000, 2001, 2002, 2003, and 2004.”.*

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 et seq.).*

22 *“(2) ELIGIBLE ENTITY.—The term ‘eligible enti-*  
 23 *ty’ means a Native Hawaiian family, the Department*  
 24 *of Hawaiian Home Lands, the Office of Hawaiian*  
 25 *Affairs, and private nonprofit or private for-profit or-*

1        *ganizations experienced in the planning and develop-*  
 2        *ment 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).*

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

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

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

15                “(6) *NATIVE HAWAIIAN*.—The term ‘Native Ha-  
 16       *waiian’ means any individual who is—*

17                “(A) *a citizen of the United States; and*

18                “(B) *a descendant of the aboriginal people,*  
 19        *who, prior to 1778, occupied and exercised sov-*  
 20        *ereignty in the area that currently constitutes*  
 21        *the State of Hawaii, as evidenced by—*

22                “(i) *genealogical records;*

23                “(ii) *verification by kupuna (elders) or*  
 24        *kama’aina (long-term community resi-*  
 25        *dents); or*

1                   “(iii) *birth records of the State of Ha-*  
2                   *waii.*

3                   “(7) *OFFICE OF HAWAIIAN AFFAIRS.*—*The term*  
4                   *‘Office of Hawaiian Affairs’ means the entity of that*  
5                   *name established under the constitution of the State*  
6                   *of Hawaii.*

7                   “(b) *AUTHORITY.*—*To provide access to sources of pri-*  
8                   *vate financing to Native Hawaiian families who otherwise*  
9                   *could not acquire housing financing because of the unique*  
10                  *legal status of the Hawaiian Home Lands or as a result*  
11                  *of a lack of access to private financial markets, the Sec-*  
12                  *retary may guarantee an amount not to exceed 100 percent*  
13                  *of the unpaid principal and interest that is due on an eligi-*  
14                  *ble loan under subsection (b).*

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

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

20                                 “(A) *a Native Hawaiian family;*

21                                 “(B) *the Department of Hawaiian Home*  
22                                 *Lands;*

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

1           “(D) a private nonprofit organization expe-  
 2           rienced in the planning and development of af-  
 3           fordable housing for Native Hawaiians.

4           “(2) *ELIGIBLE HOUSING.*—

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

11          “(B) *HOUSING PLAN.*—A housing plan de-  
 12          scribed in this subparagraph is a housing plan  
 13          that—

14               “(i) has been submitted and approved  
 15               by the Secretary under section 803 of the  
 16               Native American Housing Assistance and  
 17               Self-Determination Amendments of 1999;  
 18               and

19               “(ii) provides for the use of loan guar-  
 20               antees under this section to provide afford-  
 21               able homeownership housing on Hawaiian  
 22               Home Lands.

23          “(3) *SECURITY.*—The loan may be secured by  
 24          any collateral authorized under applicable Federal or  
 25          State law.

1           “(4) *LENDERS.*—

2                   “(A) *IN GENERAL.*—*The loan shall be made*  
 3                   *only by a lender approved by, and meeting*  
 4                   *qualifications established by, the Secretary, in-*  
 5                   *cluding any lender described in subparagraph*  
 6                   *(B), except that a loan otherwise insured or*  
 7                   *guaranteed by an agency of the Federal Govern-*  
 8                   *ment or made by the Department of Hawaiian*  
 9                   *Home Lands from amounts borrowed from the*  
 10                   *United States shall not be eligible for a guar-*  
 11                   *antee under this section.*

12                   “(B) *APPROVAL.*—*The following lenders*  
 13                   *shall be considered to be lenders that have been*  
 14                   *approved by the Secretary:*

15                           “(i) *Any mortgagee approved by the*  
 16                           *Secretary for participation in the single*  
 17                           *family mortgage insurance program under*  
 18                           *title II of the National Housing Act (12*  
 19                           *U.S.C.A. 1707 et seq.).*

20                           “(ii) *Any lender that makes housing*  
 21                           *loans under chapter 37 of title 38, United*  
 22                           *States Code, that are automatically guaran-*  
 23                           *teed under section 3702(d) of title 38,*  
 24                           *United States Code.*

1                   “(iii) *Any lender approved by the Sec-*  
 2                   *retary of Agriculture to make guaranteed*  
 3                   *loans for single family housing under the*  
 4                   *Housing Act of 1949 (42 U.S.C.A. 1441 et*  
 5                   *seq.).*

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

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

10                   “(A) *be made for a term not exceeding 30*  
 11                   *years;*

12                   “(B) *bear interest (exclusive of the guar-*  
 13                   *antee fee under subsection (d) and service*  
 14                   *charges, if any) at a rate agreed upon by the*  
 15                   *borrower and the lender and determined by the*  
 16                   *Secretary to be reasonable, but not to exceed the*  
 17                   *rate generally charged in the area (as deter-*  
 18                   *mined by the Secretary) for home mortgage loans*  
 19                   *not guaranteed or insured by any agency or in-*  
 20                   *strumentality of the Federal Government;*

21                   “(C) *involve a principal obligation not*  
 22                   *exceeding—*

23                   “(i) *97.75 percent of the appraised*  
 24                   *value of the property as of the date the loan*  
 25                   *is accepted for guarantee (or 98.75 percent*

1           *if the value of the property is \$50,000 or*  
 2           *less); or*

3           *“(ii) the amount approved by the Sec-*  
 4           *retary under this section; and*

5           *“(D) involve a payment on account of the*  
 6           *property—*

7           *“(i) in cash or its equivalent; or*

8           *“(ii) through the value of any improve-*  
 9           *ments to the property made through the*  
 10           *skilled or unskilled labor of the borrower, as*  
 11           *the Secretary shall provide.*

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

13           “(1) *APPROVAL PROCESS.—*

14           “(A) *IN GENERAL.—Before the Secretary*  
 15           *approves any loan for guarantee under this sec-*  
 16           *tion, the lender shall submit the application for*  
 17           *the loan to the Secretary for examination.*

18           “(B) *APPROVAL.—If the Secretary approves*  
 19           *the application submitted under subparagraph*  
 20           *(A), the Secretary shall issue a certificate under*  
 21           *this subsection as evidence of the loan guarantee*  
 22           *approved.*

23           “(2) *STANDARD FOR APPROVAL.—The Secretary*  
 24           *may approve a loan for guarantee under this section*  
 25           *and issue a certificate under this subsection only if*

1        *the Secretary determines that there is a reasonable*  
 2        *prospect of repayment of the loan.*

3            *“(3) EFFECT.—*

4            *“(A) IN GENERAL.—A certificate of guar-*  
 5            *antee issued under this subsection by the Sec-*  
 6            *retary shall be conclusive evidence of the eligi-*  
 7            *bility of the loan for guarantee under this section*  
 8            *and the amount of that guarantee.*

9            *“(B) EVIDENCE.—The evidence referred to*  
 10           *in subparagraph (A) shall be incontestable in the*  
 11           *hands of the bearer.*

12           *“(C) FULL FAITH AND CREDIT.—The full*  
 13           *faith and credit of the United States is pledged*  
 14           *to the payment of all amounts agreed to be paid*  
 15           *by the Secretary as security for the obligations*  
 16           *made by the Secretary under this section.*

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

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

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



1       “(e) *GUARANTEE FEE.*—

2               “(1) *IN GENERAL.*—*The Secretary shall fix and*  
 3       *collect a guarantee fee for the guarantee of a loan*  
 4       *under this section, which may not exceed the amount*  
 5       *equal to 1 percent of the principal obligation of the*  
 6       *loan.*

7               “(2) *PAYMENT.*—*The fee under this subsection*  
 8       *shall—*

9                       “(A) *be paid by the lender at time of*  
 10       *issuance of the guarantee; and*

11                      “(B) *be adequate, in the determination of*  
 12       *the Secretary, to cover expenses and probable*  
 13       *losses.*

14               “(3) *DEPOSIT.*—*The Secretary shall deposit any*  
 15       *fees collected under this subsection in the Native Ha-*  
 16       *waiian Housing Loan Guarantee Fund established*  
 17       *under subsection (j).*

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

23       “(g) *TRANSFER AND ASSUMPTION.*—*Notwithstanding*  
 24       *any other provision of law, any loan guaranteed under this*  
 25       *section, including the security given for the loan, may be*

1 *sold or assigned by the lender to any financial institution*  
 2 *subject to examination and supervision by an agency of the*  
 3 *Federal Government or of any State or the District of Co-*  
 4 *lumbia.*

5       “(h) *DISQUALIFICATION OF LENDERS AND CIVIL*  
 6 *MONEY PENALTIES.*—

7               “(1) *IN GENERAL.*—

8                       “(A) *GROUND FOR ACTION.*—*The Sec-*  
 9 *retary may take action under subparagraph (B)*  
 10 *if the Secretary determines that any lender or*  
 11 *holder of a guarantee certificate under subsection*  
 12 *(c)—*

13                               “(i) *has failed—*

14                                       “(I) *to maintain adequate ac-*  
 15 *counting records;*

16                                       “(II) *to service adequately loans*  
 17 *guaranteed under this section; or*

18                                       “(III) *to exercise proper credit or*  
 19 *underwriting judgment; or*

20                                       “(ii) *has engaged in practices other-*  
 21 *wise detrimental to the interest of a bor-*  
 22 *rower or the United States.*

23                       “(B) *ACTIONS.*—*Upon a determination by*  
 24 *the Secretary that a holder of a guarantee certifi-*  
 25 *cate under subsection (c) has failed to carry out*

1        *an activity described in subparagraph (A)(i) or*  
 2        *has engaged in practices described in subpara-*  
 3        *graph (A)(ii), the Secretary may—*

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

7                *“(ii) bar such lender or holder from ac-*  
 8                *quiring additional loans guaranteed under*  
 9                *this section; and*

10               *“(iii) require that such lender or holder*  
 11               *assume not less than 10 percent of any loss*  
 12               *on further loans made or held by the lender*  
 13               *or holder that are guaranteed under this*  
 14               *section.*

15               *“(2) CIVIL MONEY PENALTIES FOR INTENTIONAL*  
 16        *VIOLATIONS.—*

17               *“(A) IN GENERAL.—The Secretary may im-*  
 18               *pose a civil monetary penalty on a lender or*  
 19               *holder of a guarantee certificate under subsection*  
 20               *(d) if the Secretary determines that the holder or*  
 21               *lender has intentionally failed—*

22               *“(i) to maintain adequate accounting*  
 23               *records;*

24               *“(ii) to adequately service loans guar-*  
 25               *anteed under this section; or*

1                   “(iii) to exercise proper credit or un-  
2                   derwriting judgment.

3                   “(B) *PENALTIES.*—A civil monetary pen-  
4                   alty imposed under this paragraph shall be im-  
5                   posed in the manner and be in an amount pro-  
6                   vided under section 536 of the National Housing  
7                   Act (12 U.S.C.A. 1735f-1) with respect to mort-  
8                   gagees and lenders under that Act.

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

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

16               “(1) *LENDER OPTIONS.*—

17               “(A) *IN GENERAL.*—

18               “(i) *NOTIFICATION.*—If a borrower on  
19               a loan guaranteed under this section de-  
20               faults on the loan, the holder of the guar-  
21               antee certificate shall provide written notice  
22               of the default to the Secretary.

23               “(ii) *PAYMENT.*—Upon providing the  
24               notice required under clause (i), the holder  
25               of the guarantee certificate shall be entitled

1           to payment under the guarantee (subject to  
 2           the provisions of this section) and may pro-  
 3           ceed to obtain payment in 1 of the following  
 4           manners:

5                   “(I) FORECLOSURE.—

6                           “(aa) IN GENERAL.—The  
 7                           holder of the certificate may ini-  
 8                           tiate foreclosure proceedings (after  
 9                           providing written notice of that  
 10                          action to the Secretary).

11                          “(bb) PAYMENT.—Upon a  
 12                          final order by the court author-  
 13                          izing foreclosure and submission  
 14                          to the Secretary of a claim for  
 15                          payment under the guarantee, the  
 16                          Secretary shall pay to the holder  
 17                          of the certificate the pro rata por-  
 18                          tion of the amount guaranteed (as  
 19                          determined pursuant to subsection  
 20                          (f)) plus reasonable fees and ex-  
 21                          penses as approved by the Sec-  
 22                          retary.

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           “(II) *NO FORECLOSURE.*—

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

21                   “(bb) *PAYMENT.*—Upon as-  
22          *ignment, the Secretary shall pay*  
23          *to the holder of the guarantee the*  
24          *pro rata portion of the amount*

1                   *guaranteed (as determined under*  
 2                   *subsection (f)).*

3                   “(cc)     *SUBROGATION.—The*  
 4                   *rights of the Secretary shall be*  
 5                   *subrogated to the rights of the*  
 6                   *holder of the guarantee. The hold-*  
 7                   *er shall assign the obligation and*  
 8                   *security to the Secretary.*

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

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

21                  “(A)   *IN GENERAL.—If a borrower defaults*  
 22                  *on a loan guaranteed under this section that in-*  
 23                  *volves a security interest in restricted Hawaiian*  
 24                  *Home Land property, the mortgagee or the Sec-*  
 25                  *retary shall only pursue liquidation after offer-*

ing to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

“(B) *LIMITATION.*—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

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

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

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

“(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

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



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

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

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

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

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

19          “(C) *acquiring such security property at*  
20          *foreclosure sales or otherwise;*

21          “(D) *paying administrative expenses in*  
22          *connection with this section; and*

23          “(E) *reasonable and necessary costs of reha-*  
24          *bilitation and repair to properties that the Sec-*  
25          *retary holds or owns pursuant to this section.*

1           “(4) *INVESTMENT.*—*Any amounts in the Guar-*  
 2           *antee Fund determined by the Secretary to be in ex-*  
 3           *cess of amounts currently required at the time of the*  
 4           *determination to carry out this section may be in-*  
 5           *vested in obligations of the United States.*

6           “(5) *LIMITATION ON COMMITMENTS TO GUAR-*  
 7           *ANTEE LOANS AND MORTGAGES.*—

8           “(A) *REQUIREMENT OF APPROPRIATIONS.*—  
 9           *The authority of the Secretary to enter into com-*  
 10           *mitments to guarantee loans under this section*  
 11           *shall be effective for any fiscal year to the extent,*  
 12           *or in such amounts as are, or have been, pro-*  
 13           *vided in appropriations Acts, without regard to*  
 14           *the fiscal year for which such amounts were ap-*  
 15           *propriated.*

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

1           *amounts appropriated pursuant to this subpara-*  
 2           *graph shall remain available until expended.*

3           “(C) *LIMITATION ON OUTSTANDING AGGRE-*  
 4           *GATE PRINCIPAL AMOUNT.*—*Subject to the limi-*  
 5           *tations in subparagraphs (A) and (B), the Sec-*  
 6           *retary may enter into commitments to guarantee*  
 7           *loans under this section for each of fiscal years*  
 8           *2000, 2001, 2002, 2003, and 2004 with an ag-*  
 9           *gregate outstanding principal amount not ex-*  
 10          *ceeding \$100,000,000 for each such fiscal year.*

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

15          “(7) *AUTHORIZATION OF APPROPRIATIONS.*—  
 16          *There are authorized to be appropriated to the Guar-*  
 17          *antee Fund to carry out this section such sums as*  
 18          *may be necessary for each of fiscal years 2000, 2001,*  
 19          *2002, 2003, and 2004.*

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

21               “(1) *IN GENERAL.*—*The Secretary shall, by regu-*  
 22               *lation, establish housing safety and quality standards*  
 23               *to be applied for use under this section.*

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

1           “(A) provide sufficient flexibility to permit  
2           the use of various designs and materials in hous-  
3           ing acquired with loans guaranteed under this  
4           section; and

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

8                   “(i) be decent, safe, sanitary, and mod-  
9                   est in size and design;

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

13                   “(iii) contain a plumbing system  
14                   that—

15                           “(I) uses a properly installed sys-  
16                           tem of piping;

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

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

1           “(iv) contain an electrical system  
 2           using wiring and equipment properly in-  
 3           stalled to safely supply electrical energy for  
 4           adequate lighting and for operation of ap-  
 5           pliances that conforms to any appropriate  
 6           county, State, or national code;

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

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

21          “(l) *APPLICABILITY OF CIVIL RIGHTS STATUTES.*—To  
 22          the extent that the requirements of title VI of the Civil  
 23          Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII  
 24          of the Act popularly known as the ‘Civil Rights Act of 1968’  
 25          (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided

1 *under this subsection, nothing in the requirements con-*  
2 *cerning discrimination on the basis of race shall be con-*  
3 *strued to prevent the provision of the guarantee to an eligi-*  
4 *ble entity on the basis that the entity serves Native Hawai-*  
5 *ian families or is a Native Hawaiian family.”.*

