

110TH CONGRESS
1ST SESSION

S. 2523

To establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the construction, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2007

Mr. KERRY (for himself, Ms. SNOWE, Mr. SANDERS, Mr. DOMENICI, Mr. SCHUMER, Ms. COLLINS, Mr. KENNEDY, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the construction, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families.

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 “National Affordable
5 Housing Trust Fund Act of 2007”.

1 **SEC. 2. NATIONAL AFFORDABLE HOUSING TRUST FUND.**

2 (a) IN GENERAL.—Title II of the Cranston-Gonzalez
3 National Affordable Housing Act (42 U.S.C. 12721 et
4 seq.) is amended by adding at the end the following new
5 subtitle:

6 **“Subtitle G—National Affordable**
7 **Housing Trust Fund**

8 **“SEC. 291. PURPOSES.**

9 “The purposes of this subtitle are—

10 “(1) to address the national shortage of hous-
11 ing that is affordable to low-income families by cre-
12 ating a permanently appropriated fund, with dedi-
13 cated sources of funding, to finance additional hous-
14 ing activities, without supplanting existing housing
15 appropriations or existing State and local funding
16 for affordable housing;

17 “(2) to enable rental housing to be built, for
18 families with the greatest economic need, in mixed-
19 income settings and in areas with the greatest eco-
20 nomic opportunities;

21 “(3) to promote ownership of one-to-four family
22 owner-occupied housing by low-income families; and

23 “(4) to construct, rehabilitate, and preserve at
24 least 1,500,000 affordable dwelling units over the
25 next decade.

1 **“SEC. 292. TRUST FUND.**

2 “(a) ESTABLISHMENT.—There is established in the
3 Treasury of the United States a trust fund to be known
4 as the National Affordable Housing Trust Fund.

5 “(b) DEPOSITS TO TRUST FUND.—The Trust Fund
6 shall consist of—

7 “(1) any amounts of the Federal National
8 Mortgage Association and the Federal Home Loan
9 Mortgage Corporation transferred to the Trust
10 Fund under title XIII of the Housing and Commu-
11 nity Development Act of 1992;

12 “(2) any amounts appropriated to the Trust
13 Fund pursuant to the authorization in the Expand-
14 ing American Homeownership Act of 2007, relating
15 to the use of FHA savings for an affordable housing
16 grant fund; and

17 “(3) any amounts as are or may be appro-
18 priated, transferred, or credited to such Fund under
19 any other provisions of law.

20 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
21 in the Trust Fund shall be available to the Secretary of
22 Housing and Urban Development, and are hereby appro-
23 priated, for providing assistance under this subtitle.

24 “(d) FEDERAL ASSISTANCE.—All assistance provided
25 using amounts in the Trust Fund shall be considered to
26 be Federal financial assistance.

1 “(e) CONDITIONS ON USE OF FHA SAVINGS.—

2 “(1) USE.—For each fiscal year, no funds may
3 be made available under paragraph (2) of subsection
4 (b) unless the amount equal to the net increase for
5 such fiscal year in the negative credit subsidy for the
6 mortgage insurance programs under title II of the
7 National Housing Act resulting from the Expanding
8 American Homeownership Act of 2007, and the
9 amendments made by such Act, is first made avail-
10 able for the following purposes in the following
11 amounts:

12 “(A) SINGLE FAMILY HOUSING MORTGAGE
13 INSURANCE.—For each fiscal year, for costs (as
14 such term is defined in section 502 of the Fed-
15 eral Credit Reform Act of 1990 (2 U.S.C.
16 661a)) of mortgage insurance provided pursu-
17 ant to section 203(b) of the National Housing
18 Act (12 U.S.C. 1709(b)), the additional amount
19 (not including any costs of such mortgage in-
20 surance resulting from this Act or the amend-
21 ments made by this Act), if any, necessary to
22 ensure that the credit subsidy cost of such
23 mortgage insurance for such fiscal year is \$0.

24 “(B) HOUSING COUNSELING.—For each of
25 fiscal years 2008 through 2012, the amount

1 needed to increase funding, for the housing
2 counseling program under section 106 of the
3 Housing and Urban Development Act of 1968
4 (12 U.S.C. 1701x), in connection with home-
5 buyers and homeowners with mortgages insured
6 under title II of the National Housing Act,
7 from the amount appropriated for the preceding
8 fiscal year to \$100,000,000.

9 “(C) MORTGAGE INSURANCE TECH-
10 NOLOGY, PROCEDURES, PROCESSES, PROGRAM
11 PERFORMANCE, AND SALARIES.—For each of
12 fiscal years 2008 through 2012, \$25,000,000
13 for increasing funding for the purpose of im-
14 proving technology, procedures, processes, and
15 program performance, and salaries in connec-
16 tion with the mortgage insurance programs
17 under title II of the National Housing Act.

18 “(2) EXCLUSION OF EARNINGS FROM THE SIN-
19 GLE FAMILY MORTGAGE INSURANCE PROGRAM.—No
20 funds under paragraph (2) of subsection (b) for a
21 fiscal year may be derived from the negative credit
22 subsidy cost for such fiscal year, if any, for mort-
23 gage insurance provided pursuant to section 203(b)
24 of the National Housing Act.

1 “(3) CERTIFICATION.—No funds may be made
2 available under paragraph (2) of subsection (b) for
3 any fiscal year unless the Secretary of Housing and
4 Urban Development has, by rule making in accord-
5 ance with section 553 of title 5, United States Code
6 (notwithstanding subsections (a)(2), (b)(B), and
7 (d)(3) of such section), made a determination that
8 premiums being, or to be, charged during such fiscal
9 year for mortgage insurance under title II of the
10 National Housing Act are established at the min-
11 imum amount sufficient to comply with the require-
12 ments of section 205(f) of such Act (relating to re-
13 quired capital ratio for the Mutual Mortgage Insur-
14 ance Fund) and ensure the safety and soundness of
15 the other mortgage insurance funds under such Act,
16 and any negative credit subsidy for such fiscal year
17 resulting from such mortgage insurance programs
18 adequately ensures the efficient delivery and avail-
19 ability of such programs.

20 “(4) LIMITATION ON MORTGAGE INSURANCE
21 PREMIUM INCREASES.—Notwithstanding any other
22 provision of law—

23 “(A) the premiums charged for mortgage
24 insurance under any program under the Na-
25 tional Housing Act may not be increased above

1 the premium amounts in effect under such pro-
2 gram on October 1, 2006, unless the Secretary
3 of Housing and Urban Development determines
4 that, absent such increase, insurance of addi-
5 tional mortgages under such program would,
6 under the Federal Credit Reform Act of 1990,
7 require the appropriation of new budget author-
8 ity to cover the costs (as such term is defined
9 in section 502 of the Federal Credit Reform
10 Act of 1990 (2 U.S.C. 661a) of such insurance;
11 and

12 “(B) a premium increase pursuant to
13 paragraph (1) may be made only by rule mak-
14 ing in accordance with the procedures under
15 section 553 of title 5, United States Code (not-
16 withstanding subsections (a)(2), (b)(B), and
17 (d)(3) of such section).

18 **“SEC. 293. ALLOCATIONS FOR STATES, INDIAN TRIBES, IN-**
19 **SULAR AREAS, AND PARTICIPATING LOCAL**
20 **JURISDICTIONS.**

21 “(a) DETERMINATION OF AMOUNT AVAILABLE FOR
22 FISCAL YEAR.—For fiscal year 2008 and for each fiscal
23 year thereafter, the Secretary shall determine the total
24 amount available from the Trust Fund pursuant to section

1 292(c) for assistance under this subtitle and shall use such
2 amount to provide such assistance for such fiscal year.

3 “(b) ALLOCATION.—For each such fiscal year, of
4 such total amount available from the Trust Fund, the Sec-
5 retary shall allocate for use under section 294—

6 “(1) 40 percent for States, Indian tribes, and
7 insular areas; and

8 “(2) 60 percent for participating local jurisdic-
9 tions.

10 **“SEC. 294. ASSISTANCE FROM TRUST FUND.**

11 “(a) AFFORDABLE HOUSING NEEDS FORMULA.—

12 “(1) ESTABLISHMENT AND FACTORS.—The
13 Secretary shall establish a formula to allocate
14 amounts made available for a fiscal year for assist-
15 ance under this subtitle among States, all Indian
16 tribes, insular areas, and participating local jurisdic-
17 tions based on the relative needs of such entities, for
18 funds to increase the supply of decent quality afford-
19 able housing. The formula shall be based upon a
20 comparison of the following factors with respect to
21 each State, Indian tribes, each insular area, and
22 each participating local jurisdiction:

23 “(A) The ratio of the population of the
24 State, Indian tribes, insular area, or partici-
25 pating jurisdiction, to the aggregate population

1 of all States, Indian tribes, insular areas, and
2 participating jurisdictions.

3 “(B) The percentage of families in the ju-
4 risdiction of the State, of Indian tribes, or of
5 the insular area or participating jurisdiction
6 that live in substandard housing.

7 “(C) The percentage of families in the ju-
8 risdiction of the State, of Indian tribes, or of
9 the insular area or participating jurisdiction
10 that pay more than 50 percent of their annual
11 income for housing costs.

12 “(D) The percentage of persons in the ju-
13 risdiction of the State, of Indian tribes, or of
14 the insular area or participating jurisdiction
15 having an income at or below the poverty line.

16 “(E) The cost of constructing or carrying
17 out rehabilitation of housing in the jurisdiction
18 of the State, of Indian tribes, or of the insular
19 area or participating jurisdiction.

20 “(F) The percentage of the population of
21 the State, of Indian tribes, or of the insular
22 area or participating jurisdiction that resides in
23 counties having extremely low vacancy rates.

24 “(G) The percentage of housing stock in
25 the jurisdiction of the State, of Indian tribes, or

1 of the insular area or participating jurisdiction
2 that is extremely old housing.

3 “(H) For the jurisdiction of a State, of In-
4 dian tribes, or of an insular area or partici-
5 pating jurisdiction that has an extremely low
6 percentage of affordable rental housing, the ex-
7 tent to which the State, Indian tribes, or the in-
8 sular area or participating jurisdiction has in
9 the preceding fiscal year increased the percent-
10 age of rental housing within its jurisdiction that
11 is affordable housing.

12 “(I) The relationship between the median
13 family income for the area, as determined by
14 the Secretary, and fair market rent.

15 “(J) Any other factors that the Secretary
16 determines to be appropriate.

17 “(2) FAILURE TO ESTABLISH.—If, in any fiscal
18 year referred to in section 293(a), the regulations
19 establishing the formula required under paragraph
20 (1) of this subsection have not been issued by the
21 date that the Secretary determines the total amount
22 available from the Trust Fund for assistance under
23 this subtitle for such fiscal year pursuant to section
24 292(c), or there has been enacted before such date
25 a joint resolution expressly disapproving the use of

1 the formula required under paragraph (1) and sub-
2 mitted to the Congress pursuant to paragraph (3),
3 for purposes of such fiscal year—

4 “(A) section 293(b), paragraphs (2) and
5 (3) of subsection (b) of this section, and sub-
6 section (c) of this section shall not apply;

7 “(B) the allocation for Indian tribes shall
8 be such amount as the Secretary shall establish;
9 and

10 “(C) the formula amount for each State,
11 insular area, or participating local jurisdiction
12 shall be determined by applying, for such State,
13 insular area, or participating local jurisdiction,
14 the percentage that is equal to the percentage
15 of the total amounts made available for such
16 fiscal year for allocation under subtitle A of this
17 title (42 U.S.C. 12741 et seq.) that are allo-
18 cated in such year, pursuant to such subtitle, to
19 such State, insular area, or participating local
20 jurisdiction, respectively, and the allocation for
21 each State, insular area, or participating juris-
22 diction, for purposes of subsection (e) shall, ex-
23 cept as provided in subsection (d), be the for-
24 mula amount for the State, insular area, or
25 participating jurisdiction, respectively.

1 “(3) SUBMISSION TO CONGRESS.—Notwith-
2 standing any other provision of this subtitle, any for-
3 mula established by the Secretary pursuant to this
4 subsection shall be submitted to the Committee on
5 Financial Services of the House of Representatives
6 and the Committee on Banking, Housing, and
7 Urban Affairs of the Senate not less than 120 days
8 before application of the formula for purposes of de-
9 termining formula amounts under subsection (b) for
10 a fiscal year. Such submission shall be accompanied
11 by a detailed explanation of the factors under the
12 formula and anticipated effects of the formula.

13 “(b) FORMULA AMOUNT.—

14 “(1) IN GENERAL.—For each fiscal year re-
15 ferred to in section 293(a), the Secretary shall deter-
16 mine the formula amount under this subsection for
17 each State, for Indian tribes, for each insular area,
18 and for each participating local jurisdiction.

19 “(2) STATES, INDIAN TRIBES, AND INSULAR
20 AREAS.—The formula amount for each State, for In-
21 dian tribes, and for each insular area shall be the
22 amount determined for such State, for Indian tribes,
23 or for such insular area by applying the formula
24 under subsection (a) of this section to the total
25 amount allocated under section 293(b)(1) for all

1 States, Indian tribes, and insular areas for the fiscal
2 year.

3 “(3) PARTICIPATING LOCAL JURISDICTIONS.—

4 The formula amount for each participating local ju-
5 risdiction shall be the amount determined for such
6 participating local jurisdiction by applying the for-
7 mula under subsection (a) of this section to the total
8 amount allocated under section 293(b)(2) for all
9 participating local jurisdictions for the fiscal year.

10 “(4) NOTICE.—For each fiscal year referred to
11 in section 293(a), not later than 60 days after the
12 date that the Secretary determines the total amount
13 available from the Trust Fund for such fiscal year
14 pursuant to section 292(c) for assistance under this
15 subtitle, the Secretary shall cause to be published in
16 the Federal Register a notice that such amounts
17 shall be so available.

18 “(c) ALLOCATION BASED ON AFFORDABLE HOUSING
19 NEEDS FORMULA.—The allocation under this subsection
20 for a State, for Indian tribes, for an insular area, or for
21 a local participating jurisdiction for a fiscal year shall be
22 determined as follows:

23 “(1) STATES.—Subject to subsection (d), the
24 allocation for a State shall be as follows:

1 “(A) MINIMUM AMOUNT.—If the formula
2 amount determined under subsection (b)(2) for
3 the State for the fiscal year is less than 1 per-
4 cent of the total amount allocated for such fis-
5 cal year under section 293(b)(1), the allocation
6 for the State shall be 1 percent of the total
7 amount allocated for such fiscal year under sec-
8 tion 293(b)(1).

9 “(B) FORMULA AMOUNT.—If the formula
10 amount determined under subsection (b)(2) for
11 the State for the fiscal year is 0.5 percent or
12 more of the total amount allocated for such fis-
13 cal year under section 293(b)(1), the allocation
14 for the State shall be the formula amount for
15 the State, except that—

16 “(i) the Secretary shall reduce such
17 formula amounts for all States whose allo-
18 cations are determined under this subpara-
19 graph on a pro rata basis, except as pro-
20 vided in clause (ii), by the amount nec-
21 essary to account for any increases from
22 the formula amount for allocations made
23 under subparagraph (A), so that the total
24 of the allocations for all States pursuant to
25 this paragraph is equal to the aggregate of

1 the formula amounts under subsection
2 (b)(2) for all States; and

3 “(ii) no reduction pursuant to clause
4 (i) for any State may reduce the formula
5 amount for the State to less than 0.5 per-
6 cent of such total amount allocated for
7 such fiscal year.

8 “(2) INDIAN TRIBES AND INSULAR AREAS.—
9 The allocation for Indian tribes and for each insular
10 area shall be the formula amount for Indian tribes
11 or for the insular area, respectively, determined
12 under subsection (b), as applicable.

13 “(3) PARTICIPATING LOCAL JURISDICTIONS.—
14 Subject to subsection (d), the allocation for each
15 participating local jurisdiction shall be the formula
16 amount for the jurisdiction determined under sub-
17 section (b).

18 “(d) ALLOCATION EXCEPTION FOR YEARS IN WHICH
19 LESS THAN \$2 BILLION IS AVAILABLE.—If, for any fiscal
20 year, the total amount available pursuant to section
21 293(a) for assistance under this subtitle is less than
22 \$2,000,000,000—

23 “(1) for each participating local jurisdiction
24 having a formula amount for such fiscal year of less
25 than \$750,000, the allocation shall be \$0, except

1 that the allocation for such a jurisdiction for such
2 fiscal year shall be the formula amount for the juris-
3 diction for such fiscal year if—

4 “(A) the Secretary finds that the jurisdic-
5 tion has demonstrated a capacity to carry out
6 provisions of this subtitle and the State in
7 which such jurisdiction is located has author-
8 ized the Secretary to transfer to the jurisdiction
9 a portion of the State’s allocation that is equal
10 to or greater than the difference between the
11 jurisdiction’s formula amount and \$750,000, or
12 the State or jurisdiction has made available
13 such an amount from the State’s or jurisdic-
14 tion’s own sources available for use by the juris-
15 diction in accordance with this subtitle; or

16 “(B) the formula amount for such jurisdic-
17 tion for such fiscal year is an amount that is
18 greater than the formula amount for such fiscal
19 year for any other participating local jurisdic-
20 tion that is located in the same State; and

21 “(2) in the case of any jurisdiction whose allo-
22 cation is \$0 by operation of paragraph (1), the allo-
23 cation for the State in which such participating local
24 jurisdiction is located shall be increased by the

1 amount of the formula amount for the participating
2 local jurisdiction.

3 Any adjustments pursuant to paragraphs (1) and (2) shall
4 be made notwithstanding the allocation percentages under
5 section 293(b).

6 “(e) GRANT AWARDS.—For each fiscal year referred
7 to in section 293(a), using the amounts made available
8 to the Secretary from the Trust Fund for such fiscal year
9 under section 292(c), the Secretary shall, subject to sub-
10 section (f), make a grant to each State, insular area, and
11 participating local jurisdiction in the amount of the alloca-
12 tion under subsection (a)(2), (c), or (d), as applicable, for
13 the State, area, or jurisdiction, respectively.

14 “(f) MATCHING REQUIREMENT.—

15 “(1) IN GENERAL.—Each grantee for a fiscal
16 year shall contribute to eligible activities funded with
17 Trust Fund grant amounts, or require the contribu-
18 tion to such eligible activities by recipients of such
19 Trust Fund grant amounts of, in addition to any
20 such grant amounts, not less than the following
21 amount:

22 “(A) STATE, LOCAL, OR PRIVATE RE-
23 SOURCES.—To the extent that such contributed
24 amounts are derived from State, local, or pri-

1 vate resources, 12.5 percent of such grant
2 amounts.

3 “(B) FEDERAL AMOUNTS.—To the extent
4 that such contributed amounts are derived from
5 State- or locally-controlled amounts from Fed-
6 eral assistance, or from amounts made available
7 under the affordable housing program of a Fed-
8 eral Home Loan Bank pursuant to section 10(j)
9 of the Federal Home Loan Bank Act (12
10 U.S.C. 1430(j)), 25 percent of such grant
11 amounts.

12 Nothing in this paragraph may be construed to pre-
13 vent a grantee or recipient from complying with this
14 paragraph only by contributions in accordance with
15 subparagraph (A), only by contributions in accord-
16 ance with subparagraph (B), or by a combination of
17 such contributions.

18 “(2) REDUCTION OR WAIVER FOR RECIPIENTS
19 IN FISCAL DISTRESS.—The Secretary may reduce or
20 waive the requirement under paragraph (1) with re-
21 spect to any grantee that the Secretary determines,
22 pursuant to such demonstration by the recipient as
23 the Secretary shall require, is in fiscal distress. The
24 Secretary shall make determinations regarding fiscal
25 distress for purposes of this paragraph in the same

1 manner, and according to the same criteria, as fiscal
2 distress is determined with respect to jurisdictions
3 under section 220(d) (42 U.S.C. 12750(d)).

4 “(3) QUALIFICATION OF SERVICES FUNDING
5 FOR MATCH.—For purposes of meeting the require-
6 ments of paragraph (1), amounts that a grantee, re-
7 cipient, or other governmental or private agency or
8 entity commits to contribute to provide services to
9 residents of affordable housing provided using grant
10 amounts under this subtitle, by entering into a bind-
11 ing commitment for such contribution as the Sec-
12 retary shall require, shall be considered contribu-
13 tions to eligible activities. Amounts to be considered
14 eligible contributions under this paragraph shall not
15 exceed 33 percent of the total cost of the eligible ac-
16 tivity.

17 “(4) REDUCTION OR WAIVER FOR CERTAIN AC-
18 TIVITIES.—With respect to Trust Fund grant
19 amounts made available for a fiscal year, the Sec-
20 retary shall reduce or waive the amount of contribu-
21 tions otherwise required under paragraph (1) to be
22 made with respect to eligible activities to be carried
23 out with such grant amounts and for which any vari-
24 ance from zoning laws or other waiver of regulatory
25 requirements was approved by the local jurisdiction.

1 Such reduction may be implemented in the year fol-
2 lowing the year in which such activities are funded
3 with Trust Fund grant amounts.

4 “(5) WAIVER FOR DISASTER AREAS.—In the
5 case of any area that is subject to a declaration by
6 the President of a major disaster or emergency
7 under the Robert T. Stafford Disaster Relief and
8 Emergency Assistance Act (42 U.S.C. 5121), the
9 Secretary shall, for the fiscal year following such
10 declaration, waive the requirement under paragraph
11 (1) with respect to any eligible activities to be car-
12 ried out in such area.

13 “(g) COMPETITIVE GRANTS FOR INDIAN TRIBES.—
14 For each fiscal year referred to in section 293(a), the Sec-
15 retary shall, using amounts allocated for Indian tribes
16 pursuant to subsection (a)(2)(B) or (c)(2), as applicable,
17 and subject to subsection (f), make grants to Indian tribes
18 on a competitive basis, based upon such criteria as the
19 Secretary shall establish, which shall include the factors
20 specified in section 295(c)(2)(B).

21 “(h) USE BY STATE OF UNUSED FUNDS OF LOCAL
22 JURISDICTIONS.—If any participating local jurisdiction
23 for which an allocation is made for a fiscal year pursuant
24 to this section notifies the Secretary of an intent not to
25 use all or part of such funds, any such funds that will

1 not be used by the jurisdiction shall be added to the grant
2 award under subsection (e) for the State in which such
3 jurisdiction is located.

4 “(i) COMPETITIVE GRANTS FOR AREAS WITHOUT
5 ALLOCATION PLANS AND RECIPIENTS WITH INSUFFI-
6 CIENT MATCHING CONTRIBUTIONS.—

7 “(1) AVAILABLE AMOUNTS.—For a fiscal year,
8 the following amounts shall be available for grants
9 under this subsection:

10 “(A) ALLOCATION FOR AREAS NOT SUB-
11 MITTING ALLOCATION PLANS.—With respect to
12 each State, insular area, or participating local
13 jurisdiction that has not, before the expiration
14 of the 12-month period beginning upon the date
15 of the publication of the notice of funding avail-
16 ability for such fiscal year under subsection
17 (b)(4), submitted to and had approved by the
18 Secretary an allocation plan for such fiscal year
19 meeting the requirements of section 295, the
20 amount of the allocation for such State, insular
21 area, or participating local jurisdiction for such
22 fiscal year determined under this section.

23 “(B) UNMATCHED PORTION OF ALLOCA-
24 TION.—With respect to any grantee for which
25 the Trust Fund grant amount awarded for such

1 fiscal year is reduced from the amount of the
2 allocation determined under this section for the
3 grantee by reason of failure comply with the re-
4 quirements under subsection (f), the amount by
5 which such allocation for the grantee for the
6 fiscal year exceeds the Trust Fund grant
7 amount for the grantee for the fiscal year.

8 “(C) UNCOMMITTED AMOUNTS.—Any
9 Trust Fund grant amounts for a fiscal year
10 that are not committed for use for eligible ac-
11 tivities before the expiration of the 24-month
12 period beginning upon the date of the publica-
13 tion of the notice of availability of amounts
14 under subsection (b)(4) for such fiscal year.

15 “(D) UNUSED AMOUNTS.—Any Trust
16 Fund grant amounts for which the grantee no-
17 tifies the Secretary that such funds will not be
18 used under this subtitle.

19 “(2) NOTICE.—For each fiscal year, not later
20 than 60 days after the date that the Secretary deter-
21 mines that the amounts described in paragraph (1)
22 shall be available for grants under this subsection,
23 the Secretary shall cause to be published in the Fed-
24 eral Register a notice that such amounts shall be so
25 available.

1 “(3) APPLICATIONS.—The Secretary shall pro-
2 vide for nonprofit and public entities (and consortia
3 thereof, which may include regional consortia of
4 units of local government) to submit applications,
5 during the 9-month period beginning upon publica-
6 tion of a notice of funding availability under para-
7 graph (2) for a fiscal year, for a grant of all or a
8 portion of the amounts referred to in paragraph (1)
9 for such fiscal year. Such an application shall in-
10 clude a certification that the applicant will comply
11 with all requirements of this subtitle applicable to a
12 grantee under this subsection.

13 “(4) SELECTION CRITERIA.—The Secretary
14 shall, by regulation, establish criteria for selecting
15 applicants that meet the requirements of paragraph
16 (3) for funding under this subsection. Such criteria
17 shall give priority to applications that provide that
18 grant amounts under this subsection will be used for
19 eligible activities relating to affordable housing that
20 is located in the State or insular area, as applicable,
21 for which such grant funds were originally allocated
22 under this section.

23 “(5) AWARD AND USE OF GRANT ASSIST-
24 ANCE.—

1 “(A) AWARD.—Subject only to the absence
2 of applications meeting the requirements of
3 paragraph (3), upon the expiration of the pe-
4 riod referred to in such paragraph, the Sec-
5 retary shall select an applicant or applicants
6 under this subsection to receive the amounts
7 available under paragraph (1) and shall make a
8 grant or grants to such applicant or applicants.
9 The selection shall be based upon the criteria
10 established under paragraph (4).

11 “(B) USE.—Amounts from a grant under
12 this subsection shall be Trust Fund grant
13 amounts for purposes of this subtitle.

14 **“SEC. 295. ALLOCATION PLANS.**

15 “(a) IN GENERAL.—Each grantee that is a State, in-
16 sular area, participating local jurisdiction, or grantee
17 under section 294(i) for a fiscal year, shall establish an
18 allocation plan in accordance with this section for the dis-
19 tribution of Trust Fund grant amounts provided to the
20 grantee for such fiscal year, which shall be a plan that—

21 “(1) provides for use of such amounts in ac-
22 cordance with section 296;

23 “(2) is based on priority housing needs, includ-
24 ing priority housing needs in rural areas, as deter-
25 mined by the grantee; and

1 “(3) is consistent with the comprehensive hous-
2 ing affordability strategy under section 105 (42
3 U.S.C. 12705) or any applicable consolidated sub-
4 mission used for purposes of applying for other com-
5 munity planning and development and housing as-
6 sistance programs administered by the Secretary, for
7 the applicable State, insular area, jurisdiction, or
8 grantee under section 294(i).

9 “(b) ESTABLISHMENT.—In establishing an allocation
10 plan, a grantee described in subsection (a) shall notify the
11 public of the establishment of the plan, provide an oppor-
12 tunity for public comments regarding the plan, consider
13 any public comments received, and make the completed
14 plan available to the public.

15 “(c) CONTENTS.—Each allocation plan of a grantee
16 described in subsection (a) shall comply with the following
17 requirements:

18 “(1) APPLICATION REQUIREMENTS FOR ELIGI-
19 BLE RECIPIENTS.—The allocation plan shall set
20 forth the requirements for eligible recipients to apply
21 to the grantee to receive assistance from Trust Fund
22 grant amounts of the grantee for use for eligible ac-
23 tivities, including a requirement that each such ap-
24 plication include—

1 “(A) a description of the eligible activities
2 to be conducted using such assistance;

3 “(B) a certification by the eligible recipient
4 applying for such assistance that any housing
5 assisted with such grant amounts will comply
6 with—

7 “(i) all of the requirements under this
8 subtitle, including the targeting require-
9 ments under section 296(c) and the afford-
10 able housing requirements under section
11 297;

12 “(ii) section 808(d) of the Fair Hous-
13 ing Act (relating to the obligation to af-
14 firmatively further fair housing); and

15 “(iii) section 504 of the Rehabilitation
16 Act of 1973 (relating to prohibition of dis-
17 crimination on the basis of disability); and

18 “(C) in the case of any recipient who has
19 received assistance from Trust Fund grant
20 amounts in any previous fiscal year, a report on
21 the progress made in carrying out the eligible
22 activities funded with such previous assistance.

23 “(2) SELECTION PROCESS AND CRITERIA FOR
24 ASSISTANCE.—

1 “(A) SELECTION PROCESS.—The allocation
2 plan shall set forth a process for the grantee to
3 select eligible activities meeting the grantee’s
4 priority housing needs for funding with Trust
5 Fund grant amounts of the grantee, which shall
6 comply with requirements for such process as
7 the Secretary shall, by regulation, establish.

8 “(B) SELECTION CRITERIA.—The alloca-
9 tion plan shall set forth the factors for consid-
10 eration in selecting among applicants that meet
11 the application requirements established pursu-
12 ant to paragraph (1), which shall provide for
13 geographic diversity among eligible activities to
14 be assisted with Trust Fund grant amounts of
15 the grantee and shall include—

16 “(i) the merits of the proposed eligible
17 activity of the applicant, including the ex-
18 tent to which the activity addresses hous-
19 ing needs identified in the allocation plan
20 of the grantee and the applicable com-
21 prehensive housing affordability strategy or
22 consolidated submission referred to in sub-
23 section (a)(3);

24 “(ii) the experience of the applicant,
25 including its principals, in carrying out

1 projects similar to the proposed eligible ac-
2 tivity;

3 “(iii) the ability of the applicant to
4 obligate grant amounts for the proposed el-
5 igible activities and to undertake such ac-
6 tivities in a timely manner;

7 “(iv) the extent of leveraging of funds
8 by the applicant from private and other
9 non-Federal sources for carrying out the
10 eligible activities to be funded with Trust
11 Fund grant amounts, including assistance
12 made available under section 8 of the
13 United States Housing Act of 1937 (42
14 U.S.C. 1437f) that is devoted to the
15 project that contains the affordable hous-
16 ing to be assisted with such assistance;

17 “(v) the extent of local assistance that
18 will be provided in carrying out the eligible
19 activities, including financial assistance;

20 “(vi) the efficiency of total project
21 fund use as measured by the cost per unit
22 of the proposal, as adjusted by factors
23 which shall include whether the funding
24 with Trust Fund grant amounts is for new
25 construction, rehabilitation, preservation,

1 or homeownership assistance, whether the
2 project involves supportive housing, dif-
3 ferences in construction and rehabilitation
4 costs in different areas of the grantee, and
5 other appropriate adjustments;

6 “(vii) the degree to which the project
7 in which the affordable housing will be lo-
8 cated will have residents of various in-
9 comes;

10 “(viii) the extent of employment and
11 other economic opportunities for low-in-
12 come families in the area in which the
13 housing will be located;

14 “(ix) the extent to which the applicant
15 demonstrates the ability to maintain dwell-
16 ing units as affordable housing through the
17 use of assistance made available under this
18 subtitle, assistance leveraged from non-
19 Federal sources, assistance made available
20 under section 8 of the United States Hous-
21 ing Act of 1937 (42 U.S.C. 1437f), State
22 or local assistance, programs to increase
23 tenant income, cross-subsidization, and any
24 other resources;

1 “(x) the extent to which the applicant
2 demonstrates that the county in which the
3 housing is to be located is experiencing an
4 extremely low vacancy rate;

5 “(xi) the extent to which the percent-
6 age of the housing located in such county
7 that is extremely old housing exceeds 35
8 percent;

9 “(xii) the extent to which the housing
10 assisted with the grant amounts will be ac-
11 cessible to persons with disabilities;

12 “(xiii) the extent to which the appli-
13 cant demonstrates that the affordable
14 housing assisted with the grant amounts
15 will be located in proximity to public trans-
16 portation, job opportunities, child care, and
17 community revitalization projects;

18 “(xiv) the extent to which the appli-
19 cant has provided that assistance from
20 grant amounts will be used for eligible ac-
21 tivities relating to housing located in cen-
22 sus tracts in which the number of families
23 having incomes less than the poverty line is
24 less than 20 percent;

1 “(xv) the extent to which the housing
2 assisted with grant amounts will comply
3 with energy efficiency standards and the
4 national Green Communities criteria
5 checklist for residential construction that
6 provides criteria for the design, develop-
7 ment, and operation of affordable housing,
8 as the Secretary shall by regulation pro-
9 vide; and

10 “(xvi) the extent to which the design,
11 construction, and operation of the housing
12 assisted with grant amounts reduces utility
13 costs for residents and thereby reduces
14 their total housing cost.

15 A grantee may allocate a portion of funds
16 under this section for use by such grantee for
17 eligible activities pursuant to the selection proc-
18 ess under subparagraph (A).

19 “(3) USE FOR FIRST RESPONDERS AND TEACH-
20 ERS.—To the extent that Trust Fund grant
21 amounts of a grantee are made available for eligible
22 activities involving one- to four-family owner-occu-
23 pied housing, the grantee may give preference in the
24 use of such grant amounts to eligible activities relat-
25 ing to affordable housing for first responders, public

1 safety officers, teachers, and other public employees
2 who have family incomes such that such use of the
3 grant amounts complies with the requirements under
4 section 296(c).

5 “(4) PERFORMANCE GOALS, BENCHMARKS, AND
6 TIMETABLES.—The allocation plan shall include per-
7 formance goals, benchmarks, and timetables for the
8 grantee for the conducting of eligible activities with
9 Trust Fund grant amounts that comply with re-
10 quirements and standards for such goals, bench-
11 marks, and timetables as the Secretary shall, by reg-
12 ulation, establish.

13 “(d) REVIEW AND APPROVAL BY SECRETARY.—

14 “(1) SUBMISSION.—A grantee described in sub-
15 section (a) shall submit an allocation plan for the
16 fiscal year for which the grant is made to the Sec-
17 retary not later than the expiration of the 6-month
18 period beginning upon the notice of funding avail-
19 ability under section 294(b)(4) for such fiscal year
20 amounts.

21 “(2) REVIEW AND APPROVAL OR DIS-
22 APPROVAL.—The Secretary shall review and approve
23 or disapprove an allocation plan not later than the
24 expiration of the 3-month period beginning upon
25 submission of the plan.

1 “(3) STANDARD FOR DISAPPROVAL.—The Sec-
2 retary may disapprove an allocation plan only if the
3 plan fails to comply with requirements of this sec-
4 tion or section 296.

5 “(4) RESUBMISSION UPON DISAPPROVAL.—If
6 the Secretary disapproves a plan, the grantee may
7 submit to the Secretary a revised plan for review
8 and approval or disapproval under this subsection.

9 “(5) TIMING FOR FISCAL YEAR 2008.—With re-
10 spect only to fiscal year 2008, the Secretary may ex-
11 tend each of the periods referred to in paragraphs
12 (1) and (2), and the period referred to in section
13 294(i)(1)(A), by not more than 6 months.

14 **“SEC. 296. USE OF ASSISTANCE BY RECIPIENTS.**

15 “(a) DISTRIBUTION TO RECIPIENTS; USE REQUIRE-
16 MENTS.—Each grantee shall distribute Trust Fund grant
17 amounts of the grantee to eligible recipients for use in ac-
18 cordance with this section. Trust Fund grant amounts of
19 a grantee may be used, or committed for use, only for eli-
20 gible activities that—

21 “(1) are conducted in the jurisdiction of the
22 grantee;

23 “(2) in the case of a grantee that is a State,
24 insular area, participating local jurisdiction, or

1 grantee under section 294(i), comply with the alloca-
2 tion plan of the grantee under section 295;

3 “(3) are selected for funding by the grantee in
4 accordance with the process and criteria for such se-
5 lection established pursuant to section 295(c)(2);
6 and

7 “(4) comply with the targeting requirements
8 under subsection (c) of this section and the afford-
9 able housing requirements under section 297.

10 “(b) ELIGIBLE RECIPIENTS.—Trust Fund grant
11 amounts of a grantee may be provided only to an organiza-
12 tion, agency, or other entity (including a for-profit entity,
13 a nonprofit entity, a faith-based organization, a commu-
14 nity development financial institution, a community devel-
15 opment corporation, and a State or local housing trust
16 fund) that—

17 “(1) demonstrates the experience, ability, and
18 capacity (including financial capacity) to undertake,
19 comply, and manage the eligible activity;

20 “(2) demonstrates its familiarity with the re-
21 quirements of any other Federal, State or local
22 housing program that will be used in conjunction
23 with such grant amounts to ensure compliance with
24 all applicable requirements and regulations of such
25 programs; and

1 “(3) makes such assurances to the grantee as
2 the Secretary shall, by regulation, require to ensure
3 that the recipient will comply with the requirements
4 of this subtitle during the entire period that begins
5 upon selection of the recipient to receive such grant
6 amounts and ending upon the conclusion of all eligi-
7 ble activities that are engaged in by the recipient
8 and funded with such grant amounts.

9 “(c) TARGETING REQUIREMENTS.—The targeting re-
10 quirements under this subsection are as follows:

11 “(1) REQUIREMENT OF USE OF ALL AMOUNTS
12 FOR AFFORDABLE HOUSING FOR LOW-INCOME FAMI-
13 LIES.—All Trust Fund grant amounts of a grantee
14 shall be distributed for use only for eligible activities
15 relating to affordable housing that are for the ben-
16 efit only of families whose incomes do not exceed 80
17 percent of the greater of—

18 “(A) the median family income for the
19 area in which the housing is located, as deter-
20 mined by the Secretary with adjustments for
21 smaller and larger families; and

22 “(B) the median family income for the
23 State or insular area in which the housing is lo-
24 cated, as determined by the Secretary with ad-
25 justments for smaller and larger families.

1 “(2) USE OF 75 PERCENT FOR AFFORDABLE
2 HOUSING FOR EXTREMELY LOW-INCOME FAMI-
3 LIES.—Not less than 75 percent of the Trust Fund
4 grant amounts of a grantee for each fiscal year shall
5 be used only for eligible activities relating to afford-
6 able housing that are for the benefit only of families
7 whose incomes do not exceed the higher of—

8 “(A) 30 percent of the median family in-
9 come for the area in which the housing is lo-
10 cated, as determined by the Secretary with ad-
11 justments for smaller and larger families; and

12 “(B) the poverty line (as such term is de-
13 fined in section 673 of the Omnibus Budget
14 Reconciliation Act of 1981 (42 U.S.C. 9902),
15 including any revision required by such section)
16 applicable to a family of the size involved.

17 “(3) USE OF 30 PERCENT FOR AFFORDABLE
18 HOUSING FOR VERY POOR FAMILIES.—Not less than
19 30 percent of the Trust Fund grant amounts of a
20 grantee for each fiscal year shall be used only for el-
21 igible activities relating to affordable housing that
22 are for the benefit only of families whose incomes do
23 not exceed the maximum amount of income that an
24 individual or family could have, taking into consider-
25 ation any income disregards, and remain eligible for

1 benefits under the Supplemental Security Income
2 program under title XVI of the Social Security Act
3 (42 U.S.C. 1381 et seq.).

4 “(4) LIMITATION FOR YEARS IN WHICH LESS
5 THAN \$2 BILLION IS AVAILABLE.—If, for any fiscal
6 year, the total amount available pursuant to section
7 293(a) for assistance under this subtitle is less than
8 \$2,000,000,000, in addition to the other require-
9 ments under this subsection, all such amounts shall
10 be used only for eligible activities relating to afford-
11 able housing that are for the benefit only of families
12 whose incomes do not exceed 50 percent of the me-
13 dian family income for the area in which the housing
14 is located, as determined by the Secretary with ad-
15 justments for smaller and larger families.

16 “(5) REVIEW OF TARGETING REQUIREMENTS.—
17 The Secretary shall assess the need for, and the ap-
18 propriateness of, the requirements under paragraphs
19 (1) through (3) and shall submit a report to the
20 Congress on the results of the assessment not later
21 than October 1, 2010, and not later than the expira-
22 tion of the 5-year period beginning upon such date
23 and each successive 5-year period thereafter. In each
24 such report, the Secretary shall identify and make
25 recommendations regarding the continuation or ad-

1 justment of the targeting requirements in para-
2 graphs (1) through (3).

3 “(d) USE FOR RURAL AREAS.—Of the Trust Fund
4 grant amounts for any fiscal year for any grantee that
5 is a State or participating local jurisdiction that includes
6 any rural areas, the State or participating local jurisdic-
7 tion shall use a portion for eligible activities located in
8 rural areas that is proportionate to the identified need for
9 such activities in such rural areas.

10 “(e) COST LIMITS.—The Secretary shall establish
11 limitations on the amount of Trust Fund grant amounts
12 that may be used, on a per unit basis, for eligible activi-
13 ties. Such limitations shall be the same as the per unit
14 cost limits established pursuant to section 212(e) (42
15 U.S.C. 12742(e)), as adjusted annually, and established
16 by number of bedrooms, market area, and eligible activity.

17 “(f) FORMS OF ASSISTANCE.—

18 “(1) IN GENERAL.—Assistance may be distrib-
19 uted pursuant to this section in the form of—

20 “(A) capital grants, noninterest-bearing or
21 low-interest loans or advances, deferred pay-
22 ment loans, guarantees, and loan loss reserves;

23 “(B) in the case of assistance for owner-
24 ship of one- to four-family owner-occupied hous-
25 ing, downpayment assistance, closing cost as-

1 sistance, and assistance for interest rate buy-
2 downs; and

3 “(C) any other forms of assistance ap-
4 proved by the Secretary.

5 “(2) REPAYMENTS.—If a grantee awards as-
6 sistance under this section in the form of a loan or
7 other mechanism by which funds are later repaid to
8 the grantee, any repayments and returns received by
9 the grantee shall be distributed by the grantee in ac-
10 cordance with the allocation plan under section 295
11 for the grantee for the fiscal year in which such re-
12 payments are made or returns are received.

13 “(g) COORDINATION WITH OTHER ASSISTANCE.—In
14 distributing assistance pursuant to this section, each
15 grantee shall, to the maximum extent practicable, coordi-
16 nate such distribution with the provision of other Federal,
17 State, tribal, and local housing assistance, including—

18 “(1) in the case of any State, housing credit
19 dollar amounts allocated by the State under section
20 42(h) of the Internal Revenue Code of 1986;

21 “(2) assistance made available under subtitles
22 A through F (42 U.S.C. 12721 et seq.) or the com-
23 munity development block grant program under title
24 I of the Housing and Community Development Act
25 of 1974 (42 U.S.C. 5301 et seq.);

1 “(3) private activity bonds;

2 “(4) assistance made available under section 9
3 of the United States Housing Act of 1937 (42
4 U.S.C. 1437g);

5 “(5) assistance made available under section
6 8(o) of the United States Housing Act of 1937 (42
7 U.S.C. 1437f(o));

8 “(6) assistance made available under title V of
9 the Housing Act of 1949 (42 U.S.C. 1471 et seq.);

10 “(7) assistance made available under section
11 101 of the Native American Housing Assistance and
12 Self-Determination Act of 1996 (25 U.S.C. 4111);

13 “(8) assistance made available from any State
14 or local housing trust fund established to provide or
15 assist in making available affordable housing; and

16 “(9) any other housing assistance programs.

17 “(h) PROHIBITED USES.—The Secretary shall—

18 “(1) by regulation, set forth prohibited uses of
19 grant amounts under this subtitle, which shall in-
20 clude use for—

21 “(A) political activities;

22 “(B) advocacy;

23 “(C) lobbying, whether directly or through
24 other parties;

25 “(D) counseling services;

1 “(E) travel expenses; and

2 “(F) preparing or providing advice on tax
3 returns;

4 “(2) by regulation, provide that, except as pro-
5 vided in paragraph (3), grant amounts under this
6 subtitle may not be used for administrative, out-
7 reach, or other costs of—

8 “(A) a grantee; or

9 “(B) any recipient of such grant amounts;

10 and

11 “(3) by regulation, limit the amount of any
12 Trust Fund grant amounts for a fiscal year that
13 may be used for administrative costs of the grantee
14 of carrying out the program required under this sub-
15 title to a percentage of such grant amounts of the
16 grantee for such fiscal year, which may not exceed
17 10 percent.

18 “(i) LABOR STANDARDS.—Each grantee receiving
19 Trust Fund grant amounts shall ensure that contracts for
20 eligible activities assisted with such amounts comply with
21 the same requirements under section 286 (42 U.S.C.
22 12836) that are applicable to contracts for construction
23 of affordable housing assisted under subtitles A and D.

24 “(j) COMPLIANCE WITH OTHER FEDERAL LAWS.—
25 All amounts from the Trust Fund shall be allocated in

1 accordance with, and any eligible activities carried out in
2 whole or in part with grant amounts under this subtitle
3 (including housing provided with such grant amounts)
4 shall comply with and be operated in compliance with,
5 other applicable provisions of Federal law, including—

6 “(1) laws relating to tenant protections and
7 tenant rights to participate in decision making re-
8 garding their residences;

9 “(2) laws requiring public participation, includ-
10 ing laws relating to Consolidated Plans, Qualified
11 Allocation Plans, and Public Housing Agency Plans;
12 and

13 “(3) fair housing laws and laws regarding ac-
14 cessibility in federally assisted housing, including
15 section 504 of the Rehabilitation Act of 1973.

16 **“SEC. 297. AFFORDABLE HOUSING.**

17 “(a) RENTAL HOUSING.—A rental dwelling unit
18 (which may include a dwelling unit in limited equity coop-
19 erative housing, as such term is defined in section 143(k)
20 of the Internal Revenue Code of 1986 (26 U.S.C. 143(k))
21 or in housing of a cooperative housing corporation, as such
22 term is defined in section 216(b) of the Internal Revenue
23 Code of 1986 (26 U.S.A. 216(b))), shall be considered af-
24 fordable housing for purposes of this subtitle only if the
25 dwelling unit is subject to legally binding commitments

1 that ensure that the dwelling unit meets all of the fol-
2 lowing requirements:

3 “(1) RENTS.—The dwelling unit bears a rent
4 not greater than the lesser of—

5 “(A) the existing fair market rental estab-
6 lished by the Secretary under section 8(c) of
7 the United States Housing Act of 1937 (42
8 U.S.C. 1437f(c)) for a dwelling unit of the
9 same size in the same market area, or the ap-
10 plicable payment standard for assistance under
11 section 8(o) of such Act, if higher; and

12 “(B) a rent that does not exceed 30 per-
13 cent of the adjusted income of a family whose
14 income equals 65 percent of the median income
15 for the area, as determined by the Secretary,
16 with adjustment for number of bedrooms in the
17 unit, except that the Secretary may establish
18 income ceilings higher or lower than 65 percent
19 of the median for the area on the basis of the
20 findings of the Secretary that such variations
21 are necessary because of prevailing levels of
22 construction costs or fair market rents, or un-
23 usually high or low family incomes.

24 “(2) TENANT RENT CONTRIBUTION.—The con-
25 tribution toward rent by the family residing in the

1 dwelling unit will not exceed 30 percent of the ad-
2 justed income of such family.

3 “(3) NON-DISCRIMINATION AGAINST VOUCHER
4 HOLDERS.—The dwelling unit is located in a project
5 in which all dwelling units are subject to enforceable
6 restrictions that provide that a unit may not be re-
7 fused for leasing to a holder of a voucher of eligi-
8 bility under section 8 of the United States Housing
9 Act of 1937 (42 U.S.C. 1437f) because of the status
10 of the prospective tenant as a holder of such vouch-
11 er.

12 “(4) MIXED INCOME.—

13 “(A) IN GENERAL.—The dwelling unit is
14 located in a project—

15 “(i) that receives assistance under this
16 subtitle; and

17 “(ii) for which not more than 50 per-
18 cent of the rental units in the project that
19 are not previously occupied may be rented
20 initially only to families with incomes de-
21 scribed in section 296(c)(2), as determined
22 at a reasonable time before occupancy.

23 “(B) REHABILITATION.—In the case of a
24 dwelling unit in a project for which Trust Fund
25 grant amounts are used for the rehabilitation of

1 the project, the dwelling unit is located in a
2 project in which the percentage of units being
3 rented upon completion of the rehabilitation to
4 families with incomes described in section
5 296(c)(2) may not exceed the higher of 50 per-
6 cent or the percentage of such families occu-
7 pying the project at the time funds are awarded
8 for such project.

9 “(C) EXCEPTIONS.—Subparagraph (A)
10 shall not apply in the case of a project that—

11 “(i) has 25 or fewer dwelling units
12 and that is—

13 “(I) located in a census tract in
14 which the number of families having
15 incomes less than the poverty line is
16 less than 20 percent;

17 “(II) located in a rural area, as
18 such term is defined in section 520 of
19 the Housing Act of 1949 (42 U.S.C.
20 1490); or

21 “(III) specifically made available
22 only for households comprised of dis-
23 abled families; or

1 “(ii) is specifically made available only
2 for households comprised of elderly fami-
3 lies.

4 “(5) VISITABILITY.—To the extent the dwelling
5 unit is not required under Federal law to comply
6 with standards relating to accessibility to persons
7 with disabilities, the dwelling unit complies with
8 such basic visitability standards as the Secretary
9 shall by regulation provide.

10 “(6) DURATION OF USE.—The dwelling unit
11 will continue to be subject to all requirements under
12 this subsection for not less than 50 years.

13 “(b) OWNER-OCCUPIED HOUSING.—For purposes of
14 any eligible activity involving one- to four-family owner-
15 occupied housing (which may include housing of a cooper-
16 ative housing corporation, as such term is defined in sec-
17 tion 216(b) of the Internal Revenue Code of 1986 (26
18 U.S.C. 216(b))), such a residence shall be considered af-
19 fordable housing for purposes of this subtitle only if—

20 “(1) in the case of housing to be made available
21 for purchase—

22 “(A) the housing is available for purchase
23 only for use as a principal residence by families
24 that qualify as first-time homebuyers, as such
25 term is defined in section 104 (42 U.S.C.

1 12704), except that any reference in such sec-
2 tion to assistance under title II of this Act shall
3 for purposes of this section be considered to
4 refer to assistance from Trust Fund grant
5 amounts;

6 “(B) the housing has an initial purchase
7 price that meets the requirements of section
8 215(b)(1); and

9 “(C) the housing is subject to the same re-
10 sale restrictions established under section
11 215(b)(3) and applicable to the participating
12 jurisdiction that is the State in which such
13 housing is located; and

14 “(2) the housing is made available for purchase
15 only by, or in the case of assistance to a homebuyer
16 pursuant to this subsection, the assistance is made
17 available only to, homebuyers who have, before pur-
18 chase, completed a program of counseling with re-
19 spect to the responsibilities and financial manage-
20 ment involved in homeownership that is approved by
21 the Secretary and includes counseling regarding fi-
22 nancial literacy, strategies to save money, qualifying
23 for a mortgage loan, methods to avoid predatory
24 lenders and foreclosure, and, where appropriate by
25 region, any requirements and costs associated with

1 obtaining flood or other disaster-specific insurance
2 coverage; except that the Secretary may, at the re-
3 quest of a State, waive the requirements of this
4 paragraph with respect to a geographic area or
5 areas within the State if—

6 “(A) the travel time or distance involved in
7 providing counseling with respect to such area
8 or areas, as otherwise required under this para-
9 graph, on an in-person basis is excessive or the
10 cost of such travel is prohibitive; and

11 “(B) the State provides alternative forms
12 of counseling for such area or areas, which may
13 include interactive telephone counseling, on-line
14 counseling, interactive video counseling, and
15 interactive home study counseling and a pro-
16 gram of financial literacy and education to pro-
17 mote an understanding of consumer, economic,
18 and personal finance issues and concepts, in-
19 cluding saving for retirement, managing credit,
20 long-term care, and estate planning and edu-
21 cation on predatory lending, identity theft, and
22 financial abuse schemes relating to homeownership
23 that is approved by the Secretary, except
24 that entities providing such counseling shall not

1 discriminate against any particular form of
2 housing.

3 “(c) PRIORITY FOR FAMILIES ON SECTION 8 OR
4 PUBLIC HOUSING WAITING LIST FOR 12 MONTHS OR
5 LONGER.—A dwelling unit in rental housing or owner-oc-
6 cupied housing shall be considered affordable housing for
7 purposes of this subtitle only if the dwelling unit is subject
8 to such requirements, as the Secretary shall provide, to
9 ensure that priority for occupancy in or, in the case of
10 owner-occupied housing, purchase of, the dwelling unit is
11 provided to families who are eligible for rental assistance
12 under section 8 of the United States Housing Act of 1937
13 (42 U.S.C. 1437f) or occupancy in public housing assisted
14 under such Act, and have applied to a public housing
15 agency for such assistance or occupancy, as applicable,
16 and been on a waiting list of a public housing agency for
17 such assistance or occupancy, as applicable, for at least
18 12 consecutive months.

19 **“SEC. 298. OTHER PROVISIONS.**

20 “(a) EFFECT OF ASSISTANCE UNDER PROGRAM.—
21 Notwithstanding any other provision of law, the provision
22 of assistance under this subtitle for a project shall not re-
23 duce the amount of assistance for which such project is
24 otherwise eligible under subtitles A through F of this title,

1 if the project does not exceed the cost limits established
2 pursuant to section 296(e).

3 “(b) ACCOUNTABILITY OF GRANTEES AND RECIPI-
4 ENTS.—

5 “(1) RECIPIENTS.—

6 “(A) TRACKING OF FUNDS.—The Sec-
7 retary shall—

8 “(i) require each grantee to develop
9 and maintain a system to ensure that each
10 recipient of assistance from Trust Fund
11 grant amounts of the grantee uses such
12 amounts in accordance with this subtitle,
13 the regulations issued under this subtitle,
14 and any requirements or conditions under
15 which such amounts were provided; and

16 “(ii) establish minimum requirements
17 for agreements, between the grantee and
18 recipients, regarding assistance from the
19 Trust Fund grant amounts of the grantee,
20 which shall include—

21 “(I) appropriate continuing fi-
22 nancial and project reporting, record
23 retention, and audit requirements for
24 the duration of the grant to the re-
25 cipient to ensure compliance with the

1 limitations and requirements of this
2 subtitle and the regulations under this
3 subtitle; and

4 “(II) any other requirements that
5 the Secretary determines are nec-
6 essary to ensure appropriate grant ad-
7 ministration and compliance.

8 “(B) MISUSE OF FUNDS.—

9 “(i) REIMBURSEMENT REQUIRE-
10 MENT.—If any recipient of assistance from
11 Trust Fund grant amounts of a grantee is
12 determined, in accordance with clause (ii),
13 to have used any such amounts in a man-
14 ner that is materially in violation of this
15 subtitle, the regulations issued under this
16 subtitle, or any requirements or conditions
17 under which such amounts were pro-
18 vided—

19 “(I) such recipient shall be ineli-
20 gible for any further assistance from
21 any Trust Fund grant amounts of any
22 grantee during the period that begins
23 upon such determination and ends
24 upon reinstatement by the Secretary
25 of the eligibility of recipient for such

1 assistance, except that the Secretary
2 may reinstate such an ineligible recipi-
3 ent only pursuant to application by
4 the recipient for such reinstatement
5 and the recipient may not apply to the
6 Secretary for such reinstatement dur-
7 ing the 12-month period, or the 10-
8 year period in the case of a second or
9 subsequent such determination, begin-
10 ning upon such determination; and

11 “(II) the grantee shall require
12 that, within 12 months after the de-
13 termination of such misuse, the recipi-
14 ent shall reimburse the grantee for
15 such misused amounts and return to
16 the grantee any amounts from the
17 Trust Fund grant amounts of the
18 grantee that remain unused or uncom-
19 mitted for use.

20 The remedies under this clause are in ad-
21 dition to any other remedies that may be
22 available under law.

23 “(ii) DETERMINATION.—A determina-
24 tion is made in accordance with this clause
25 if the determination is—

1 “(I) made by the Secretary; or
2 “(II)(aa) made by the grantee;
3 “(bb) the grantee provides notifi-
4 cation of the determination to the
5 Secretary for review, in the discretion
6 of the Secretary, of the determination;
7 and
8 “(cc) the Secretary does not sub-
9 sequently reverse the determination.

10 “(2) GRANTEES.—

11 “(A) REPORT.—

12 “(i) IN GENERAL.—The Secretary
13 shall require each grantee receiving Trust
14 Fund grant amounts for a fiscal year to
15 submit a report, for such fiscal year, to the
16 Secretary that—

17 “(I) describes the activities fund-
18 ed under this subtitle during such
19 year with the Trust Fund grant
20 amounts of the grantee;

21 “(II) describes the manner in
22 which the grantee complied during
23 such fiscal year with the allocation
24 plan established pursuant to section
25 295 for the grantee; and

1 “(III) certifies the number of
2 total dwelling units of affordable
3 housing that were constructed, pre-
4 served, or rehabilitated during such
5 fiscal year with assistance from Trust
6 Funds grant amounts of the grantee
7 comply with widely accepted standards
8 for green building.

9 “(ii) PUBLIC AVAILABILITY.—The
10 Secretary shall make such reports pursu-
11 ant to this subparagraph publicly available.

12 “(B) MISUSE OF FUNDS.—If the Secretary
13 determines, after reasonable notice and oppor-
14 tunity for hearing, that a grantee has failed to
15 comply substantially with any provision of this
16 subtitle and until the Secretary is satisfied that
17 there is no longer any such failure to comply,
18 the Secretary shall—

19 “(i) reduce the amount of assistance
20 under this section to the grantee by an
21 amount equal to the amount of Trust
22 Fund grant amounts which were not used
23 in accordance with this subtitle;

24 “(ii) require the grantee to repay the
25 Secretary an amount equal to the amount

1 of the Trust Fund grant amounts which
2 were not used in accordance with this sub-
3 title;

4 “(iii) limit the availability of assist-
5 ance under this subtitle to the grantee to
6 activities or recipients not affected by such
7 failure to comply; or

8 “(iv) terminate any assistance under
9 this subtitle to the grantee.

10 “(c) GREEN HOUSING CLEARINGHOUSE.—

11 “(1) ESTABLISHMENT.—The Secretary shall es-
12 tablish a clearinghouse of information relating to
13 green building techniques to provide grantees and
14 recipients of Trust Fund amounts information re-
15 garding use of Trust Fund grant amounts in a man-
16 ner that increases the efficiency of buildings and
17 their use of energy, water, and materials, and reduc-
18 ing building impacts on human health and the envi-
19 ronment, through better siting, design, construction,
20 operation, maintenance, and removal, including in-
21 formation regarding best practices and technical rec-
22 ommendations.

23 “(2) ACCESS THROUGH INTERNET.—The Sec-
24 retary shall make the information of the clearing-
25 house available by means of the Internet.

1 **“SEC. 299. DEFINITIONS.**

2 “For purposes of this subtitle, the following defini-
3 tions shall apply:

4 “(1) **ELIGIBLE ACTIVITIES.**—The term ‘eligible
5 activities’ means activities relating to the construc-
6 tion, preservation, or rehabilitation of affordable
7 rental housing or affordable one- to four-family
8 owner-occupied housing, including—

9 “(A) the construction of new housing;

10 “(B) the acquisition of real property;

11 “(C) site preparation and improvement, in-
12 cluding demolition;

13 “(D) rehabilitation of existing housing;

14 “(E) use of funds to facilitate affordability
15 for homeless and other extremely low-income
16 households of dwelling units assisted with Trust
17 Fund grant amounts, in a combined amount
18 not to exceed 20 percent of the project grant
19 amount, for—

20 “(i) project-based rental assistance for
21 not more than 12 months for a project as-
22 sisted with Trust Fund grant amounts;

23 “(ii) project operating reserves for use
24 to cover the loss of rental assistance or in
25 conjunction with a project loan; or

1 “(iii) project operating accounts used
2 to cover net operating income shortfalls for
3 dwelling units assisted with Trust Fund
4 grant amounts;

5 “(F) use of funds to facilitate affordability
6 for families having incomes described in section
7 296(c)(3), in a combined amount for a grantee
8 in any fiscal year not to exceed 10 percent of
9 the aggregate Trust Fund grant amounts pro-
10 vided to the grantee for such fiscal year, for
11 project operating accounts used to cover net op-
12 erating income shortfalls for dwelling units as-
13 sisted with Trust Fund grant amounts;

14 “(G) providing incentives to maintain ex-
15 isting housing (including manufactured hous-
16 ing) as affordable housing and to establish or
17 extend any low-income affordability restrictions
18 for such housing, including covering capital ex-
19 penditures and costs of establishing community
20 land trusts to provide sites for manufactured
21 housing provided such incentives; and

22 “(H) in the case of affordable one- to four-
23 family owner-occupied housing, downpayment
24 assistance, closing cost assistance, and assist-
25 ance for interest rate buy-downs.

1 “(2) ELIGIBLE RECIPIENT.—The term ‘eligible
2 recipient’ means an entity that meets the require-
3 ments under section 296(b) for receipt of Trust
4 Fund grant amounts of a grantee.

5 “(3) EXTREMELY LOW VACANCY RATE.—The
6 term ‘extremely low vacancy rate’ means a housing
7 or rental vacancy rate of 2 percent or less.

8 “(4) EXTREMELY OLD HOUSING.—The term
9 ‘extremely old housing’ means housing that is 45
10 years old or older.

11 “(5) FAMILIES.—The term ‘families’ has the
12 meaning given such term in section 3(b) of the
13 United States Housing Act of 1937 (42 U.S.C.
14 1437a(b)).

15 “(6) FISCAL DISTRESS; SEVERE FISCAL DIS-
16 TRESS.—The terms ‘fiscal distress’ and ‘severe fiscal
17 distress’ have the meanings given such terms in sec-
18 tion 220(d).

19 “(7) GRANTEE.—The term ‘grantee’ means—

20 “(A) a State, insular area, or participating
21 local jurisdiction for which a grant is made
22 under section 294(e);

23 “(B) an Indian tribe for which a grant is
24 made under section 294(g); or

1 “(C) a nonprofit or public entity for which
2 a grant is made under section 294(i).

3 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
4 means a federally recognized Indian tribe.

5 “(9) INSULAR AREA.—The term ‘insular area’
6 has the meaning given such term in section 104.

7 “(10) PARTICIPATING LOCAL JURISDICTION.—
8 The term ‘participating local jurisdiction’ means,
9 with respect to a fiscal year—

10 “(A) any unit of general local government
11 (as such term is defined in section 104 (42
12 U.S.C. 12704) that qualifies as a participating
13 jurisdiction under section 216 (42 U.S.C.
14 12746) for such fiscal year; and

15 “(B) at the option of such a consortium,
16 any consortium of units of general local govern-
17 ments that is designated pursuant to section
18 216 (42 U.S.C. 12746) as a participating juris-
19 diction for purposes of title II.

20 “(11) POVERTY LINE.—The term ‘poverty line’
21 has the meaning given such term in section 673(2)
22 of the Omnibus Budget Reconciliation Act of 1981,
23 including any revision required by such section.

24 “(12) RECIPIENT.—The term ‘recipient’ means
25 an entity that receives assistance from a grantee,

1 pursuant to section 296(a), from Trust Fund grant
2 amounts of the grantee.

3 “(13) RURAL AREA.—The term ‘rural area’ has
4 the meaning given such term in section 520 of the
5 Housing Act of 1949 (42 U.S.C. 1490).

6 “(14) SECRETARY.—The term ‘Secretary’
7 means the Secretary of Housing and Urban Develop-
8 ment.

9 “(15) STATE.—The term ‘State’ has the mean-
10 ing given such term in section 104.

11 “(16) TRUST FUND.—The term ‘Trust Fund’
12 means the National Affordable Housing Trust Fund
13 established under section 292.

14 “(17) TRUST FUND GRANT AMOUNTS.—The
15 term ‘Trust Fund grant amounts’ means amounts
16 from the Trust Fund that are provided to a grantee
17 pursuant to subsection (e), (g), or (i) of section 294.

18 **“SEC. 299A. INAPPLICABILITY OF HOME PROVISIONS.**

19 “Except as specifically provided otherwise in this sub-
20 title, no requirement under, or provision of, title I or sub-
21 titles A through F of this title shall apply to assistance
22 provided under this subtitle.

23 **“SEC. 299B. REGULATIONS.**

24 “Not later than 6 months after the date of enactment
25 of the National Affordable Housing Trust Fund Act of

1 2007, the Secretary of Housing and Urban Development
2 shall promulgate regulations to carry out this subtitle,
3 which shall include regulations establishing the affordable
4 housing needs formula in accordance with section 294(a).

5 **“SEC. 299C. BENEFITS.**

6 “Nothing in this subtitle allows any payments under
7 this subtitle for any individual or head of household that
8 is not a legal resident.”.

9 (b) CONFORMING AMENDMENT.—Section 201 of the
10 Cranston-Gonzalez National Affordable Housing Act (42
11 U.S.C. 12701 note) is amended by striking “This title”
12 and inserting “Subtitles A through F of this title”.

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