

Calendar No. 721

103^D CONGRESS
2^D SESSION

S. 2150

[Report No. 103-409]

A BILL

To establish a Native Hawaiian housing program.

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994
Reported with an amendment

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[Report No. 103-409]

To establish a Native Hawaiian housing program.

IN THE SENATE OF THE UNITED STATES

MAY 25 (legislative day, MAY 16), 1994

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

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. INOUE, with an amendment

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

A BILL

To establish a Native Hawaiian housing program.

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; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 “Native Hawaiian Housing Assistance Act of 1994”.

6 (b) ~~TABLE OF CONTENTS.~~—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Declaration of policy.
- Sec. 4. Purposes.

TITLE I—HOUSING ASSISTANCE

- Sec. 101. General provisions.
- Sec. 102. Loan guarantees for Native Hawaiian housing.

TITLE II—HOME INVESTMENT PARTNERSHIPS

- Sec. 201. Native Hawaiian eligibility for the HOME program.

TITLE III—COMMUNITY DEVELOPMENT BLOCK GRANTS

- Sec. 301. Native Hawaiian eligibility for CDBG.
- Sec. 302. Native Hawaiian allocation.
- Sec. 303. Definitions.

TITLE IV—HOUSING STANDARDS

- Sec. 401. Housing subdivision development.
- Sec. 402. Demonstration project to develop localized housing standards for Native Hawaiian communities.

TITLE V—GENERAL PROVISIONS

- Sec. 501. Definitions.
- Sec. 502. Legal obligations of the United States.
- Sec. 503. Severability.
- Sec. 504. Regulations.
- Sec. 505. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) Native Hawaiians are a distinct and unique
 4 indigenous people with a historical continuity to the
 5 original inhabitants of the Hawaiian archipelago
 6 whose society was organized as a Nation and inter-
 7 nationally recognized as such prior to the arrival of
 8 the first nonindigenous people in 1778.

9 (2) At the time of the arrival of the first
 10 nonindigenous people in Hawaii in 1778, the Native
 11 Hawaiian people lived in a highly organized, self-suf-

1 efficient subsistence social system based on a com-
2 munal land tenure system with a sophisticated lan-
3 guage, culture, and religion.

4 (3) It is estimated that there were 1,000,000
5 Native Hawaiians inhabiting Hawaii at the time of
6 the arrival of the first nonindigenous people in 1778.
7 Due to the devastating physical, cultural, social,
8 emotional, and spiritual effects of western contact,
9 however, the Native Hawaiian population was nearly
10 decimated. In 1826, the population had decreased to
11 an estimated 142,650 Hawaiians.

12 (4) In 1893, the sovereign, independent, inter-
13 nationally recognized, and indigenous government of
14 Hawaii, the Kingdom of Hawaii, was overthrown by
15 a small group of non-Hawaiians, including United
16 States citizens, who were assisted in their efforts by
17 the United States Minister, a United States naval
18 representative, and armed naval forces of the United
19 States. In 1993, because of the participation of
20 United States agents and citizens in the overthrow
21 of the Kingdom of Hawaii, the Congress, on behalf
22 of the people of the United States, apologized to Na-
23 tive Hawaiians for the overthrow and the deprivation
24 of the rights of Native Hawaiians to self determina-
25 tion in the Joint Resolution entitled “Joint Resolu-

1 tion to acknowledge the 100th anniversary of the
2 January 17, 1893 overthrow of the Kingdom of Ha-
3 waii, and to offer an apology to Native Hawaiians on
4 behalf of the United States for the overthrow of the
5 Kingdom of Hawaii,” approved November 23, 1993
6 (107 Stat. 1510).

7 (5) In 1898, the Joint Resolution entitled
8 “Joint Resolution to provide for annexing the Ha-
9 waiian Islands to the United States”, approved July
10 7, 1898 (30 Stat. 750), ceded absolute title of all
11 public lands held by the Republic of Hawaii, includ-
12 ing the government and crown lands of the former
13 Kingdom of Hawaii, to the United States, but man-
14 dated that revenue generated from these lands be
15 used “solely for the benefit of the inhabitants of the
16 Hawaiian Islands for educational and other public
17 purposes”.

18 (6) By 1919, the Native Hawaiian population
19 had declined to an alarming 22,600 people, and in
20 recognition of this severe decline, the Congress in
21 1921 enacted the Hawaiian Homes Commission Act,
22 1920, which designated approximately 200,000 acres
23 of the ceded public lands for homesteading by Native
24 Hawaiians.

1 (7) Through the enactment of the Hawaiian
2 Homes Commission Act, 1920, the Congress af-
3 firmed the special relationship between the United
4 States and the Native Hawaiians. As then Secretary
5 of the Interior Franklin K. Lane was quoted in the
6 committee report for the Hawaiian Homes Commis-
7 sion Act, 1920: “One thing that impressed me : : :
8 was the fact that the natives of the islands who are
9 our wards, I should say, and for whom in a sense
10 we are trustees, are falling off rapidly in numbers
11 and many are in poverty.

12 (8) In 1959, under the Act entitled “An Act to
13 provide for the admission of the State of Hawaii into
14 the Union”, approved March 18, 1959 (73 Stat. 4),
15 the United States transferred responsibility for the
16 administration of the Hawaiian Home Lands to the
17 State of Hawaii but reaffirmed the special relation-
18 ship which existed between the United States and
19 the Hawaiian people by retaining the exclusive power
20 to enforce the trust, including the power to approve
21 land exchanges and legislative amendments affecting
22 the rights of beneficiaries under such Act.

23 (9) In 1959, under the Act entitled “An Act to
24 provide for the admission of the State of Hawaii into
25 the Union”, approved March 18, 1959 (73 Stat. 4),

1 the United States ceded to the State of Hawaii title
2 to the public lands formerly held by the United
3 States, but mandated that such lands be held by the
4 State “in public trust” and reaffirmed the special
5 relationship which existed between the United States
6 and the Hawaiian people by retaining the legal re-
7 sponsibility to enforce the public trust responsibility
8 for the betterment of the conditions of Native Ha-
9 waiians (as defined in the Hawaiian Homes Commis-
10 sion Act, 1920).

11 (10) The United States assumed special respon-
12 sibilities for Native Hawaiian lands and resources at
13 the time of the annexation of the Territory in 1898,
14 upon adoption of the Hawaiian Homes Commission
15 Act, 1920, in 1921, and upon admission of the State
16 of Hawaii into the Union in 1959, and has retained
17 certain of those responsibilities.

18 (11) In recognition of the special relationship
19 which exists between the United States and the Na-
20 tive Hawaiian people, the United States has ex-
21 tended to Native Hawaiians the same rights and
22 privileges accorded to American Indian, Alaska Na-
23 tive, Eskimo, and Aleut communities under the Na-
24 tive American Programs Act of 1974, the American
25 Indian Religious Freedom Act, the National Mu-

1 seum of the American Indian Act, the Native Amer-
2 ican Graves Protection and Repatriation Act, the
3 National Historic Preservation Act, and the Native
4 American Languages Act.

5 (12) In recognition of the special relationship
6 which exists between the United States and the Na-
7 tive Hawaiian people, the Congress has enacted nu-
8 merous special provisions of law for the benefit of
9 Native Hawaiians in the areas of health, education,
10 and labor, including those found in the Older Ameri-
11 cans Act of 1965, the Developmental Disabilities As-
12 sistance and Bill of Rights Act Amendments of
13 1987, the Veterans' Benefits and Services Act of
14 1988, the Native Hawaiian Health Care Act of
15 1988, and the Native Hawaiian Education Act of
16 1988.

17 (13) The special relationship which exists be-
18 tween the United States and the Native Hawaiian
19 people has also been consistently recognized and af-
20 firmed by the Congress in the area of housing—

21 (A) through the authorization of mortgage
22 loans insured by the Federal Housing Adminis-
23 tration for the purchase, construction, or refi-
24 nancing of homes on Hawaiian Home Lands
25 under the National Housing Act;

1 ~~(B)~~ by mandating Native Hawaiian rep-
2 resentation on the National Commission on
3 American Indian, Alaska Native, and Native
4 Hawaiian Housing (hereafter in this Act re-
5 ferred to as the “Commission”); and

6 ~~(C)~~ by the inclusion of Native Hawaiians
7 in the Native American Veterans’ Home Loan
8 Equity Act of 1993.

9 ~~(14)~~ Despite the enactment of housing pro-
10 grams for Native Hawaiians, the housing needs of
11 Native Hawaiians continue to be severe, and in
12 1991, the Congress acknowledged the seriousness of
13 the Native Hawaiian housing needs through the es-
14 tablishment of the Commission.

15 ~~(15)~~ In 1993, the Commission concluded in its
16 report that the unique circumstances of Native Ha-
17 waiians required that new legislation be enacted to
18 alleviate and address the severe housing needs of the
19 Native Hawaiians. Among the Commission’s findings
20 were that—

21 ~~(A)~~ Native Hawaiians are seriously over-
22 represented in the State’s homeless population;

23 ~~(B)~~ of those applicants on the waiting list
24 for Hawaiian Home Lands, 19.5 percent of the
25 applicants and 17.8 percent of their spouses are

1 unemployed, a substantially higher rate than
2 the general State population;

3 (C) the average Native Hawaiian house-
4 hold size is 4.25 persons, as compared to the
5 statewide average of 2.97 persons; and

6 (D) the median Native Hawaiian family in-
7 come is substantially below the 1988 State av-
8 erage of \$39,600.

9 (16) The Commission further found that Native
10 Hawaiians have the worst housing conditions in the
11 State of Hawaii and the highest percentage of home-
12 lessness, representing over 30 percent of the State's
13 homeless population and that Native Hawaiians, like
14 American Indians and Alaska Natives, suffer lack of
15 access to conventional financing due to the trust sta-
16 tus of their home lands and a frequent inability to
17 meet income requirements.

18 (17) The Commission recommended that the
19 Congress remedy the housing problems facing Native
20 Hawaiians by extending to them the same Federal
21 housing assistance available to American Indians
22 and Alaska Natives under the Low-Income Rental,
23 Mutual Help, Loan Guarantee, and Community De-
24 velopment Block Grant programs of the Department
25 of Housing and Urban Development.

1 (18) Despite the creation of Federal housing
2 programs designed to benefit low- and moderate-in-
3 come families, Native Hawaiian families residing on
4 Hawaiian Homelands have been precluded from ac-
5 cess to these programs because of the exclusive na-
6 ture of the trust lands, thus denying to Native Ha-
7 waiians those same benefits available to all other
8 qualified Americans.

9 (19) In 1993, the United States, in recognition
10 of the housing needs of all Native Hawaiian families,
11 whether residing on the Hawaiian homelands or off,
12 included Native Hawaiians in a study of American
13 Indian and Alaska Native housing needs being con-
14 ducted by the Urban Institute of the Department of
15 Housing and Urban Development.

16 (20) The utilization of ceded lands for the pur-
17 pose of developing housing for Native Hawaiians is
18 consistent with 2 of the 5 purposes set forth in sec-
19 tion 5(f) of “An Act to provide for the admission of
20 the State of Hawaii into the Union”, approved
21 March 18, 1959 (73 Stat. 4). Specifically, such utili-
22 zation is for the betterment of the conditions of Na-
23 tive Hawaiians (as defined in the Hawaiian Homes
24 Commission Act, 1920) and for the development of

1 farm and home ownership on as widespread a basis
2 as possible.

3 **SEC. 3. DECLARATION OF POLICY.**

4 The Congress declares that it is the policy of the
5 United States—

6 (1) to promote the general welfare of the Na-
7 tion by employing its funds and credit, as provided
8 in this Act, to remedy the unsafe and unsanitary
9 housing conditions and the acute shortage of decent,
10 safe, and sanitary dwellings for families of lower in-
11 come and, consistent with the objectives of this Act,
12 to vest in local housing agencies the maximum
13 amount of responsibility in the administration of
14 their housing programs;

15 (2) to remedy the severe housing crisis within
16 the Native Hawaiian community, consistent with the
17 United States' special responsibilities and legal obli-
18 gations to the indigenous people of Hawaii resulting
19 from the unique and historical relationship between
20 the United States and the Native Hawaiian people;
21 and

22 (3) to encourage the maximum participation of
23 Native Hawaiian communities and community-based
24 organizations in the planning and development of
25 housing programs established under this Act.

1 **SEC. 4. PURPOSES.**

2 The purposes of this Act are—

3 (1) to amend the United States Housing Act of
4 1937 by adding a new title to establish and imple-
5 ment a general program of assisted housing for Na-
6 tive Hawaiians;

7 (2) to amend the Housing and Community De-
8 velopment Act of 1992 to establish and implement a
9 loan guarantee program for Native Hawaiians;

10 (3) to amend the Cranston-Gonzalez National
11 Affordable Housing Act to establish Native Hawai-
12 ian eligibility for the HOME program; and

13 (4) to amend the Housing and Community De-
14 velopment Act of 1974 to provide eligibility, alloca-
15 tion, and fund distribution to Native Hawaiians for
16 community development block grants.

17 **TITLE I—HOUSING ASSISTANCE**

18 **SEC. 101. GENERAL PROVISIONS.**

19 The United States Housing Act of 1937 (42 U.S.C.
20 1437 et seq.) is amended by adding at the end the follow-
21 ing new title:

1 **“TITLE IV—ASSISTED HOUSING**
 2 **FOR NATIVE HAWAIIANS**

3 **“SEC. 401. GENERAL AUTHORITY TO PROVIDE ASSISTED**
 4 **HOUSING FOR NATIVE HAWAIIANS.**

5 “(a) IN GENERAL.—The Secretary shall carry out
 6 programs to provide low-income housing on Native Hawai-
 7 ian lands in accordance with the provisions of this title.

8 “(b) INAPPLICABILITY OF TITLES I AND II.—No pro-
 9 vision of title I or title II shall apply to housing developed
 10 or operated pursuant to a contract between the Secretary
 11 and a Native Hawaiian Housing Authority under this title,
 12 unless the provision or a provision of this title explicitly
 13 provides for such applicability.

14 **“SEC. 402. DEFINITIONS.**

15 “For purposes of this title, the following definitions
 16 shall apply:

17 “(1) ADJUSTED INCOME.—The term ‘adjusted
 18 income’ means the income which remains after ex-
 19 cluding—

20 “(A) \$550 for each member of the family
 21 residing in the household (other than the head
 22 of the household or their spouse) who is under
 23 18 years of age or who is 18 years of age or
 24 older and is disabled or handicapped or a full-
 25 time student;

1 ~~“(B) \$400 for any elderly family;~~

2 ~~“(C) the amount by which the aggregate of~~
3 ~~the following expenses of the family exceeds 3~~
4 ~~percent of annual family income—~~

5 ~~“(i) medical expenses for any family;~~

6 and

7 ~~“(ii) reasonable attendant care and~~
8 ~~auxiliary apparatus expenses for each~~
9 ~~handicapped member of any family, to the~~
10 ~~extent necessary to enable any member of~~
11 ~~such family (including such handicapped~~
12 ~~member) to be employed;~~

13 ~~“(D)(i) child care expenses to the extent~~
14 ~~necessary to enable another member of the fam-~~
15 ~~ily to be employed or to further such family~~
16 ~~member’s education; or~~

17 ~~“(ii) excessive travel expenses, not to ex-~~
18 ~~ceed \$25 per family per week, for employment~~
19 ~~or education related travel, except that this~~
20 ~~clause shall apply only to families assisted by~~
21 ~~Native Hawaiian Housing Authorities;~~

22 ~~“(E) 10 percent of the earned income of~~
23 ~~the family; and~~

24 ~~“(F) any payment made by a member of~~
25 ~~the family for the support and maintenance of~~

1 any child, spouse, or former spouse who does
2 not reside in the household, except that the
3 amount excluded under this subparagraph shall
4 not exceed the lesser of—

5 “(i) the amount that such family
6 member has a legal obligation to pay; or

7 “(ii) \$550 for each individual for
8 whom such payment is made.

9 “(2) ~~COMMUNITY-BASED.~~—The term ‘commu-
10 nity-based’ means an organization that—

11 “(A) is exempt from taxation under section
12 501(c)(3) of the Internal Revenue Code of
13 1986;

14 “(B) is not a governmental entity; and

15 “(C) is representative of a community or a
16 significant segment of a community or is en-
17 gaged in providing services to the community.

18 “(3) ~~DEPARTMENT OF HAWAIIAN HOME~~
19 ~~LANDS.~~—The term ‘Department of Hawaiian Home
20 Lands’ means the department of the State of Hawaii
21 that is responsible for the administration of the Ha-
22 waiian Homes Commission Act, 1920.

23 “(4) ~~FAMILY.~~—The term ‘family’ means one or
24 more persons maintaining a household, as the Sec-
25 retary shall by regulation provide.

1 “(5) HAWAIIAN HOME LANDS.—The term ‘Ha-
2 waiian Home Lands’ means those lands set aside for
3 homesteading by Native Hawaiians under the Ha-
4 waiian Homes Commission Act, 1920, and any other
5 lands acquired pursuant to such Act.

6 “(6) INCOME.—The term ‘income’ means in-
7 come from all sources of each member of a house-
8 hold, as determined in accordance with criteria pre-
9 scribed by the Secretary.

10 “(7) LOW-INCOME HOUSING.—The term ‘low-
11 income housing’ means decent, safe, and sanitary
12 dwellings assisted under this title.

13 “(8) LOW-INCOME FAMILIES.—The term ‘low-
14 income families’ means families whose incomes do
15 not exceed 80 percent of the median income for the
16 area, as determined by the Secretary with adjust-
17 ments for smaller and larger families, except that
18 the Secretary may establish income ceilings higher
19 or lower than 80 percent of the median for the area
20 on the basis of the Secretary’s findings that such
21 variations are necessary because of prevailing levels
22 of construction costs or unusually high or low family
23 incomes.

24 “(9) NATIVE HAWAIIAN.—The term ‘Native
25 Hawaiian’ means any individual who is a descendant

1 of the aboriginal people who, prior to 1778, occupied
 2 and exercised sovereignty in the area that now con-
 3 stitutes the State of Hawaii, as evidenced by—

4 “(A) genealogical records;

5 “(B) Kupuna (elders) or Kama’aina (long-
 6 term community residents) verification; or

7 “(C) certified birth records.

8 “(10) NATIVE HAWAIIAN HOUSING AUTHOR-
 9 ITY.—The term ‘Native Hawaiian Housing Author-
 10 ity’ means any public body (or agency or instrumen-
 11 tality thereof) established under the laws of the
 12 State of Hawaii, that is authorized to engage in or
 13 assist in the development or operation of low-income
 14 housing for Native Hawaiians.

15 “(11) NATIVE HAWAIIAN LANDS.—The term
 16 ‘Native Hawaiian lands’ means the area within
 17 which a Native Hawaiian Housing Authority is au-
 18 thorized to provide low-income housing. The term
 19 may include—

20 “(A) Hawaiian Home Lands;

21 “(B) ceded public lands; and

22 “(C) other lands traditionally occupied by
 23 Native Hawaiians.

1 “(12) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Housing and Urban Develop-
3 ment.

4 “(13) PUBLIC HOUSING TERMS.—As used in
5 reference to public housing, the following definitions
6 shall apply:

7 “(A) DEVELOPMENT.—The term ‘develop-
8 ment’ means any or all undertakings necessary
9 for planning, land acquisition, demolition, con-
10 struction, or equipment, in connection with a
11 low-income housing project;

12 “(B) DEVELOPMENT COST.—The term ‘de-
13 velopment cost’ comprises the costs incurred by
14 a public housing agency in development under-
15 takings and their necessary financing (including
16 the payment of carrying charges), and in other-
17 wise carrying out the development of a housing
18 project. Construction activity in connection with
19 a low-income housing project may be confined
20 to the reconstruction, remodeling, or repair of
21 existing buildings.

22 “(C) OPERATION.—

23 “(i) IN GENERAL.—The term ‘oper-
24 ation’ means any or all undertakings ap-
25 propriate for management, operation, serv-

1 ices, maintenance, security (including the
2 cost of security personnel), or financing in
3 connection with a low-income housing
4 project. The term also means the financing
5 of tenant programs and services for fami-
6 lies residing in low-income housing
7 projects, particularly where there is maxi-
8 mum feasible participation of the tenants
9 in the development and operation of such
10 tenant programs and services. To the max-
11 imum extent available and appropriate, ex-
12 isting public and private agencies in the
13 community shall be used for the provision
14 of such tenant services.

15 “(ii) TENANT PROGRAMS AND SERV-
16 ICES.—For purposes of this subparagraph,
17 the term ‘tenant programs and services’ in-
18 cludes—

19 “(I) the development and mainte-
20 nance of tenant organizations that
21 participate in the management of low-
22 income housing projects;

23 “(II) the training of tenants to
24 manage and operate such projects and

1 the utilization of their services in
2 project management and operation;

3 “(III) counseling on household
4 management, housekeeping, budget-
5 ing, money management, child care,
6 and similar matters;

7 “(IV) advice as to resources for
8 job training and placement, education,
9 welfare, health, and other community
10 services;

11 “(V) services that are directly re-
12 lated to meeting tenant needs and
13 providing a wholesome living environ-
14 ment; and

15 “(VI) referral to appropriate
16 agencies in the community when nec-
17 essary for the provision of such serv-
18 ices.

19 **“SEC. 403. GRANTS FOR THE DEVELOPMENT OR ACQUI-
20 TION OF LOWER INCOME HOUSING
21 PROJECTS.**

22 “(a) IN GENERAL.—The Secretary shall make grants
23 to help finance or refinance the development or acquisition
24 of low-income housing projects by Native Hawaiian Hous-
25 ing Authorities.

1 ownership needs of Native Hawaiian families, including
2 families whose incomes exceed the levels established for
3 low-income families.

4 “(b) ELIGIBLE FAMILIES.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), assistance under this section shall be lim-
7 ited to Native Hawaiian low-income families.

8 “(2) EXCEPTION.—The Native Hawaiian Hous-
9 ing Authority may provide assistance under this sec-
10 tion to families whose incomes exceed the levels es-
11 tablished for low-income families, if the Native Ha-
12 waiian Housing Authority demonstrates to the satis-
13 faction of the Secretary that there is a need for
14 housing for such families that cannot reasonably be
15 met without such assistance.

16 “(c) MUTUAL HELP AND OCCUPANCY AGREE-
17 MENT.—The Native Hawaiian Housing Authority shall re-
18 quire each family selected for housing under this section
19 to enter into a mutual help and occupancy agreement. The
20 agreement shall provide the following:

21 “(1) FAMILY CONTRIBUTION.—The family shall
22 agree to contribute toward the development cost of
23 a project in the form of land, labor, cash, materials,
24 or equipment.

1 ~~“(2) MONTHLY PAYMENT.~~—The family shall
2 agree to make a monthly payment to the Native Ha-
3 waiian Housing Authority in an amount equal to the
4 greater of the following:

5 ~~“(A) PERCENTAGE OF ADJUSTED IN-~~
6 ~~COME.~~—An amount computed by—

7 ~~“(i) multiplying the monthly adjusted~~
8 ~~income of the family by a percentage that~~
9 ~~is not less than 15 percent and not more~~
10 ~~than 30 percent, as determined by the Na-~~
11 ~~tive Hawaiian Housing Authority to be ap-~~
12 ~~propriate; and~~

13 ~~“(ii) subtracting the estimated month-~~
14 ~~ly payments of the family for the reason-~~
15 ~~able use of utilities (excluding telephone~~
16 ~~service).~~

17 ~~“(B) ADMINISTRATION CHARGE.~~—The
18 amount budgeted by the Native Hawaiian
19 Housing Authority for monthly operating ex-
20 penses on the dwelling of the family, excluding
21 any operating cost for which operating assist-
22 ance is provided by the Secretary under section
23 9.

24 ~~“(3) MAINTENANCE AND UTILITIES.~~—The fam-
25 ily shall be responsible for the maintenance and

1 monthly utility expenses of the dwelling. The Native
2 Hawaiian Housing Authority shall have in effect
3 procedures determined by the Secretary to be suffi-
4 cient for ensuring the timely periodic maintenance of
5 the dwelling by the family.

6 “(4) HOMEOWNERSHIP OPPORTUNITIES.—The
7 Native Hawaiian Housing Authority shall afford the
8 family an opportunity to purchase the dwelling
9 under a lease-purchase mortgage, or loan agreement
10 with the Native Hawaiian Housing Authority or any
11 other qualified entity, if the Native Hawaiian Hous-
12 ing Authority determines (in accordance with objec-
13 tive standards and procedures established by the
14 Secretary after consultation with the Native Hawai-
15 ian Housing Authority) that the family is able to
16 meet the obligations of homeownership.

17 **“SEC. 408. HAWAIIAN HOUSING MODERNIZATION.**

18 “The Secretary may make available and contract to
19 make available financial assistance (in such amounts as
20 are authorized pursuant to section 413 and as may be ap-
21 proved in appropriations Acts) to Native Hawaiian Hous-
22 ing Authorities in accordance with section 14 of this Act.

23 **“SEC. 409. PUBLIC HOUSING MAXIMUM CONTRIBUTION.**

24 “In determining the maximum contribution that may
25 be made by the Secretary to a Native Hawaiian Housing

1 Authority under this title for the development of a housing
2 project (including a mutual help homeownership oppor-
3 tunity project under section 407), the Secretary shall con-
4 sider all relevant factors, including—

5 “(1) the logistical problems associated with
6 projects of remote location, low density, or scattered
7 sites; and

8 “(2) the availability of skilled labor and accept-
9 able materials.

10 **“SEC. 410. CONTRACT PROVISIONS AND REQUIREMENTS.**

11 “(a) IN GENERAL.—The Secretary may include in
12 any contract for loans or for the development, acquisition,
13 or operation of public housing or any other agreement or
14 instrument made pursuant to this title, such covenants,
15 conditions, or provisions as the Secretary may determine
16 to be necessary in order to insure the lower income char-
17 acter of the project involved.

18 “(b) TOTAL DEVELOPMENT COST.—

19 “(1) IN GENERAL.—Any contract described in
20 subsection (a) shall provide that the total develop-
21 ment cost of the project on which the computation
22 of any annual contributions under this title may be
23 based may not exceed—

1 “(A) the amount determined under para-
2 graph (2) (for the appropriate structure type),
3 unless the Secretary provides otherwise; or

4 “(B) 110 percent of the amount deter-
5 mined under paragraph (2), unless the Sec-
6 retary for good cause determines otherwise.

7 “(2) COMPUTATION.—For purposes of para-
8 graph (1), the Secretary shall determine the total
9 development cost of a housing project by multiplying
10 the construction cost guideline for the project (which
11 shall be determined by averaging the current con-
12 struction costs, as listed by not less than 2 nation-
13 ally recognized residential construction cost indices,
14 for publicly bid construction of a good and sound
15 quality) by—

16 “(A) in the case of elevator-type struc-
17 tures, 1.6; and

18 “(B) in the case of nonelevator-type struc-
19 tures, 1.75.

20 **“SEC. 411. GENERAL PROVISIONS.**

21 “(a) DUTIES OF THE SECRETARY.—Notwithstanding
22 any other provision of law, the Secretary, in the perform-
23 ance of, and with respect to, the functions, powers, and
24 duties vested in the Secretary by this title, shall—

1 “(1) prepare annually and submit a budget pro-
2 gram as provided for wholly owned Government cor-
3 porations by chapter 91 of title 31, United States
4 Code; and

5 “(2) maintain an integral set of accounts which
6 shall be audited annually by the General Accounting
7 Office in accordance with the principles and proce-
8 dures applicable to commercial transactions as pro-
9 vided by chapter 91 of title 31, United States Code,
10 and no other audit shall be required.

11 “(b) RECEIPTS AND ASSETS.—All receipts and assets
12 of the Secretary under this title shall be available for the
13 purposes of this title until expended.

14 “(c) POWERS OF FEDERAL RESERVE BANKS.—The
15 Federal Reserve banks are authorized and directed to act
16 as depositories, custodians, and fiscal agents for the Sec-
17 retary in the general exercise of the Secretary’s powers
18 under this title. The Secretary may reimburse any such
19 bank for its services in any manner as may be agreed
20 upon.

21 “(d) RELATED FACILITIES AND SERVICES.—The
22 Secretary shall take such actions as may be necessary to
23 ensure the timely and efficient provision, through agree-
24 ments with the Native Hawaiian Housing Authority or
25 other entities, of any roads, water supply and sewage fa-

1 cilities, and electrical and fuel distribution systems that
2 are required for completion and occupancy of public hous-
3 ing projects assisted under this title, including mutual
4 help homeownership opportunity projects assisted under
5 section 407.

6 “(e) CONTRACT AGENCY.—The Secretary shall grant
7 the Native Hawaiian Housing Authority the authority to
8 contract with any Federal, State, local, or nonprofit entity
9 for the purposes outlined in subsection (d).

10 **“SEC. 412. REGULATIONS.**

11 “(a) ISSUANCE.—The Secretary shall issue such reg-
12 ulations as may be necessary to carry out this title.

13 “(b) CONSULTATION WITH NATIVE HAWAIIAN
14 HOUSING AUTHORITIES.—In formulating proposed regu-
15 lations under this section, the Secretary shall consult with
16 Native Hawaiian Housing Authorities.

17 “(c) EFFECTIVE DATE.—The regulations issued
18 under this section shall become effective before the expira-
19 tion of the 180-day period beginning on the date of enact-
20 ment of the Native Hawaiian Housing Assistance Act of
21 1994.

22 **“SEC. 413. AUTHORIZATION OF APPROPRIATIONS.**

23 “There are authorized to be appropriated such sums
24 as may be necessary to carry out this title.”.

1 **SEC. 102. LOAN GUARANTEES FOR NATIVE HAWAIIAN**
 2 **HOUSING.**

3 Subtitle E of title I of the Housing and Community
 4 Development Act of 1992 (12 U.S.C. 1715z-13a) is
 5 amended by adding at the end the following new section:

6 **“SEC. 187. LOAN GUARANTEES FOR NATIVE HAWAIIAN**
 7 **HOUSING.**

8 “(a) **AUTHORITY.**—To provide access to sources of
 9 private financing to Native Hawaiian families and a Na-
 10 tive Hawaiian Housing Authority that otherwise could not
 11 acquire housing financing because of the unique status of
 12 the Hawaiian Home Lands, the Secretary may guarantee
 13 not more than 100 percent of the unpaid principal and
 14 interest due on any loan eligible under subsection (b)
 15 made to a Native Hawaiian family or Native Hawaiian
 16 Housing Authority.

17 “(b) **ELIGIBLE LOANS.**—Loans guaranteed pursuant
 18 to this section shall meet the following requirements:

19 “(1) **ELIGIBLE BORROWERS.**—The loans shall
 20 be made only to borrowers who are Native Hawaiian
 21 families or a Native Hawaiian Housing Authority.

22 “(2) **ELIGIBLE HOUSING.**—The loans shall be
 23 used to construct, acquire, or rehabilitate 1- to 4-
 24 family dwellings that are standard housing and are
 25 located on Hawaiian Home Lands or Native Hawai-
 26 ian lands.

1 ~~“(3) SECURITY.~~—The loans may be secured by
2 any collateral authorized under existing Federal law
3 or applicable State law.

4 ~~“(4) LENDERS.~~—The loans shall be made only
5 by a lender approved by and meeting qualifications
6 established by the Secretary, except that loans other-
7 wise insured or guaranteed by an agency of the Fed-
8 eral Government or made by an organization of Na-
9 tive Hawaiians from amounts borrowed from the
10 United States shall not be eligible for guarantee
11 under this section. The following lenders are deemed
12 to be approved under this paragraph:

13 ~~“(A) Any mortgagee approved by the Sec-~~
14 ~~retary of Housing and Urban Development for~~
15 ~~participation in the single family mortgage in-~~
16 ~~surance program under title II of the National~~
17 ~~Housing Act.~~

18 ~~“(B) Any lender whose housing loans~~
19 ~~under chapter 37 of title 38, United States~~
20 ~~Code, are automatically guaranteed pursuant to~~
21 ~~section 1802(d) of such title.~~

22 ~~“(C) Any lender approved by the Secretary~~
23 ~~of Agriculture to make guaranteed loans for~~
24 ~~single family housing under the Housing Act of~~
25 ~~1949.~~

1 ~~“(D) Any other lender that is supervised,~~
2 ~~approved, regulated, or insured by any agency~~
3 ~~of the Federal Government.~~

4 ~~“(5) TERMS.—The loan shall—~~

5 ~~“(A) be made for a term not exceeding 30~~
6 ~~years;~~

7 ~~“(B) bear interest (exclusive of the guar-~~
8 ~~antee fee under subsection (d) and service~~
9 ~~charges, if any) at a rate agreed upon by the~~
10 ~~borrower and the lender and determined by the~~
11 ~~Secretary to be reasonable, which may not ex-~~
12 ~~ceed the rate generally charged in the area (as~~
13 ~~determined by the Secretary) for home mort-~~
14 ~~gage loans not guaranteed or insured by any~~
15 ~~agency or instrumentality of the Federal Gov-~~
16 ~~ernment;~~

17 ~~“(C) involve a principal obligation not ex-~~
18 ~~ceeding—~~

19 ~~“(i) an amount equal to the sum of—~~

20 ~~“(I) 97 percent of \$25,000 of the~~
21 ~~appraised value of the property, as of~~
22 ~~the date the loan is accepted for guar-~~
23 ~~antee; and~~

24 ~~“(II) 95 percent of such value in~~
25 ~~excess of \$25,000; and~~

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

3 “(D) involve a payment on account of the
4 property—

5 “(i) in cash or its equivalent; or

6 “(ii) through the value of any im-
7 provements to the property made through
8 the skilled or unskilled labor of the bor-
9 rower;

10 as the Secretary shall provide.

11 “(c) CERTIFICATE OF GUARANTEE.—

12 “(1) APPROVAL PROCESS.—The Secretary shall
13 not approve any loan for guarantee under this sec-
14 tion until the lender submits a completed application
15 for the loan to the Secretary for examination in ac-
16 cordance with this subsection. If the Secretary ap-
17 proves the loan for guarantee, the Secretary shall
18 issue a certificate of guarantee in accordance with
19 this subsection.

20 “(2) STANDARD FOR APPROVAL.—The Sec-
21 retary may approve a loan for guarantee and issue
22 a certificate of guarantee under this subsection only
23 if the Secretary determines there is a reasonable
24 prospect of repayment of the loan.

1 “(3) EFFECT.—A certificate of guarantee is-
2 sued under this subsection shall be conclusive evi-
3 dence of the eligibility of the loan for guarantee and
4 the amount of such guarantee. Such evidence shall
5 be incontestable in the hands of the bearer and the
6 full faith and credit of the United States is pledged
7 to the payment of all amounts agreed to be paid by
8 the Secretary as security for such obligations.

9 “(4) FRAUD AND MISREPRESENTATION.—This
10 subsection may not be construed to preclude the
11 Secretary from establishing defenses against the
12 original lender based on fraud or material misrepre-
13 sentation or to bar the Secretary from establishing
14 by regulations in effect on the date of issuance or
15 disbursement, whichever is earlier, partial defenses
16 to the amount payable on the guarantee.

17 “(d) GUARANTEE FEE.—The Secretary shall fix and
18 collect a guarantee fee for the guarantee of loans under
19 this section, which shall not exceed the amount equal to
20 1 percent of the principal obligation of the loan. The fee
21 shall be paid by the lender at the time of issuance of the
22 guarantee and shall be adequate, in the determination of
23 the Secretary, to cover expenses and probable losses. The
24 Secretary shall deposit any fees collected under this sub-

1 section in the Native Hawaiian Housing Loan Guarantee
2 Fund established under subsection (i).

3 ~~“(e) LIABILITY UNDER GUARANTEE.—The liability~~
4 ~~under a guarantee provided under this section shall de-~~
5 ~~crease or increase on a pro rata basis according to any~~
6 ~~decrease or increase in the amount of the unpaid obliga-~~
7 ~~tion under the provisions of the loan agreement.~~

8 ~~“(f) TRANSFER AND ASSUMPTION.—Notwithstand-~~
9 ~~ing any other provision of law, any loan guaranteed under~~
10 ~~this section, including the security given for the loan, may~~
11 ~~be sold or assigned by the lender to any financial institu-~~
12 ~~tion subject to examination and supervision by an agency~~
13 ~~of the Federal Government or of any State or the District~~
14 ~~of Columbia.~~

15 ~~“(g) DISQUALIFICATION OF LENDERS AND CIVIL~~
16 ~~MONEY PENALTIES.—~~

17 ~~“(1) IN GENERAL.—If the Secretary determines~~
18 ~~that any lender or holder of a guarantee certificate~~
19 ~~under subsection (e) has failed to maintain adequate~~
20 ~~accounting records to adequately service loans guar-~~
21 ~~anteed under this section, to exercise proper credit~~
22 ~~or underwriting judgment, or has engaged in prac-~~
23 ~~tices otherwise detrimental to the interest of a bor-~~
24 ~~rower or the United States, the Secretary may—~~

1 “(A) refuse, either temporarily or perma-
2 nently, to guarantee any additional loans made
3 by such lender or holder;

4 “(B) bar such lender or holder from ac-
5 quiring additional loans guaranteed under this
6 section; and

7 “(C) require that such lender or holder as-
8 sume not less than 10 percent of any loss on
9 additional loans made or held by the lender or
10 holder that are guaranteed under this section.

11 “(2) CIVIL MONEY PENALTIES FOR INTEN-
12 TIONAL VIOLATIONS.—If the Secretary determines
13 that any lender or holder of a guarantee certificate
14 under this section has intentionally failed to main-
15 tain adequate accounting records, to adequately
16 service loans guaranteed under this section, or to ex-
17 ercise proper credit or underwriting judgment, the
18 Secretary may impose a civil money penalty on such
19 lender or holder in the manner and amount provided
20 under section 536 of the National Housing Act with
21 respect to mortgagees and lenders under such Act.

22 “(3) PAYMENT ON LOANS MADE IN GOOD
23 FAITH.—Notwithstanding paragraphs (1) and (2),
24 the Secretary may not refuse to pay pursuant to a
25 valid guarantee on loans of a lender or holder barred

1 under this subsection if the loans were previously
2 made in good faith.

3 ~~“(h) PAYMENT UNDER GUARANTEE.—~~

4 ~~“(1) LENDER OPTIONS.—~~

5 ~~“(A) IN GENERAL.—~~In the event of default
6 by the borrower on a loan guarantee under this
7 section, the holder of the guarantee certificate
8 shall provide written notice of the default to the
9 Secretary. Upon providing such notice, the
10 holder of the guarantee certificate shall be enti-
11 tled to payment under the guarantee (subject to
12 the provisions of this section) and may proceed
13 to obtain payment in one of the following man-
14 ners:

15 ~~“(i) FORECLOSURE.—~~The holder of
16 the certificate may initiate foreclosure pro-
17 ceedings in a court of competent jurisdic-
18 tion (after providing written notice of such
19 action to the Secretary) and upon a final
20 order by the court authorizing foreclosure
21 and submission to the Secretary of a claim
22 for payment under the guarantee, the Sec-
23 retary shall pay to the holder of the certifi-
24 cate the pro rata portion of the amount
25 guaranteed (as determined in accordance

1 with subsection (e)) plus reasonable fees
2 and expenses as approved by the Secretary.
3 The Secretary shall be subrogated to the
4 rights of the holder of the guarantee and
5 the holder shall assign the obligation and
6 security to the Secretary.

7 “(ii) NO FORECLOSURE.—Without
8 seeking a judicial foreclosure (or in any
9 case in which a foreclosure proceeding ini-
10 tiated under clause (i) continues for a pe-
11 riod in excess of 1 year), the holder of the
12 guarantee may submit to the Secretary a
13 claim for payment under the guarantee
14 and the Secretary shall only pay to such
15 holder for a loss on any single loan an
16 amount equal to 90 percent of the pro rata
17 portion of the amount guaranteed (as de-
18 termined in accordance with subsection
19 (e)). The Secretary shall be subrogated to
20 the rights of the holder of the guarantee
21 and the holder shall assign the obligation
22 and security to the Secretary.

23 “(B) REQUIREMENTS.—Before any pay-
24 ment under a guarantee is made under sub-
25 paragraph (A), the holder of the guarantee

1 shall exhaust all reasonable possibilities of col-
2 lection. Upon payment, in whole or in part, to
3 the holder, the note or judgment evidencing the
4 debt shall be assigned to the United States and
5 the holder shall have no further claim against
6 the borrower or the United States. The Sec-
7 retary shall then take such action to collect as
8 the Secretary determines appropriate.

9 ~~“(2) ASSIGNMENT BY SECRETARY.—~~Notwith-
10 standing paragraph (1), upon receiving notice of de-
11 fault on a loan guaranteed under this section from
12 the holder of the guarantee, the Secretary may ac-
13 cept assignment of the loan if the Secretary deter-
14 mines that the assignment is in the best interests of
15 the United States. Upon assignment the Secretary
16 shall pay to the holder of the guarantee the pro rata
17 portion of the amount guaranteed (as determined
18 under subsection (e)). The Secretary shall be sub-
19 rogated to the rights of the holder of the guarantee
20 and the holder shall assign the obligation and secu-
21 rity to the Secretary.

22 ~~“(3) LIMITATIONS ON LIQUIDATION.—~~In the
23 event of a default by the borrower on a loan guaran-
24 teed under this section involving a security interest
25 in Hawaiian Home Lands or Native Hawaiian lands,

1 the Secretary shall only pursue liquidation after of-
2 fering to transfer the account to the Native Hawai-
3 ian Housing Authority. If the Secretary subse-
4 quently proceeds to liquidate the account, the Sec-
5 retary shall not sell, transfer, or otherwise dispose of
6 or alienate the property except to the Native Hawai-
7 ian Housing Authority.

8 “(i) NATIVE HAWAIIAN HOUSING LOAN GUARANTEE
9 FUND.—

10 “(1) ESTABLISHMENT.—There is established in
11 the Treasury of the United States the Native Ha-
12 waiian Housing Loan Guarantee Fund for the pur-
13 pose of providing loan guarantees under this section.

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

16 “(A) any amounts, claims, notes, mort-
17 gages, contracts, and property acquired by the
18 Secretary under this section, and any collections
19 and proceeds therefrom;

20 “(B) any amounts appropriated under
21 paragraph (7);

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

24 “(D) any interest or earnings on amounts
25 invested under paragraph (4).

1 ~~“(3) USE.—~~Amounts in the Guarantee Fund
2 shall be available, to the extent provided in appro-
3 priation 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 such term~~
7 ~~is defined in section 502 of the Congressional~~
8 ~~Budget Act of 1974) of such loans;~~

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

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

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

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

24 ~~“(4) INVESTMENT.—~~Any amounts in the Guar-
25 ~~antee Fund determined by the Secretary to be in ex-~~

1 cess of amounts currently required to carry out this
2 section may be invested in obligations of the United
3 States.

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

6 ~~“(A) REQUIREMENT OF APPROPRIA-~~
7 ~~TIONS.—~~The authority of the Secretary to enter
8 into commitments to guarantee loans under this
9 section shall be effective for any fiscal year only
10 to the extent or in such amounts as are or have
11 been provided in appropriation Acts for such
12 fiscal year.

13 ~~“(B) LIMITATIONS ON COSTS OF GUARAN-~~
14 ~~TEES.—~~The authority of the Secretary to enter
15 into commitments to guarantee loans under this
16 section shall be effective for any fiscal year only
17 to the extent that amounts in the Guarantee
18 Fund are or have been made available in appro-
19 priation Acts to cover the costs (as such term
20 is defined in section 502 of the Congressional
21 Budget Act of 1974) of such loan guarantees
22 for such fiscal year.

23 ~~“(C) LIMITATION ON OUTSTANDING AG-~~
24 ~~GREGATE PRINCIPAL AMOUNT.—~~Subject to the
25 limitations in subparagraphs (A) and (B), the

1 Secretary may enter into commitments to guar-
2 antee loans under this section in each of fiscal
3 years 1993 and 1994 with an aggregate out-
4 standing principal amount not exceeding such
5 amount as may be provided in appropriation
6 Acts for each such year.

7 ~~“(6) LIABILITIES.—All liabilities and obliga-~~
8 ~~tions of the assets credited to the Guarantee Fund~~
9 ~~under paragraph (2)(A) shall be liabilities and obli-~~
10 ~~gations of the Guarantee Fund.~~

11 ~~“(7) AUTHORIZATION OF APPROPRIATIONS.—~~
12 ~~There are authorized to be appropriated to the~~
13 ~~Guarantee Fund such sums as may be necessary to~~
14 ~~carry out this section.~~

15 ~~“(j) REQUIREMENTS FOR STANDARD HOUSING.—~~
16 ~~The Secretary shall, by regulation, establish housing safe-~~
17 ~~ty and quality standards for use under this section. Such~~
18 ~~standards shall provide sufficient flexibility to permit the~~
19 ~~use of various designs and materials in housing acquired~~
20 ~~with loans guaranteed under this section. The standards~~
21 ~~shall require each dwelling unit in any housing so acquired~~
22 ~~to—~~

23 ~~“(1) be decent, safe, sanitary, and modest in~~
24 ~~size and design; and~~

1 ~~“(2) conform with minimum standards estab-~~
 2 ~~lished under any applicable county, State, or na-~~
 3 ~~tional building code.~~

4 ~~“(k) DEFINITIONS.—For purposes of this section, the~~
 5 ~~following definitions shall apply:~~

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

9 ~~“(2) GUARANTEE FUND.—The term ‘Guarantee~~
 10 ~~Fund’ means the Native Hawaiian Housing Loan~~
 11 ~~Guarantee Fund established under subsection (i).~~

12 ~~“(3) HAWAIIAN HOME LANDS.—The term ‘Ha-~~
 13 ~~waiian Home Lands’ means those lands set aside for~~
 14 ~~homesteading by Native Hawaiians under the Ha-~~
 15 ~~waiian Homes Commission Act, 1920.~~

16 ~~“(4) NATIVE HAWAIIAN.—The term ‘Native~~
 17 ~~Hawaiian’ means any individual who is a descendant~~
 18 ~~of the aboriginal people who, prior to 1778, occupied~~
 19 ~~and exercised sovereignty in the area that now con-~~
 20 ~~stitutes the State of Hawaii, as evidenced by—~~

21 ~~“(A) genealogical records;~~

22 ~~“(B) Kupuna (elders) or Kama’aina (long-~~
 23 ~~term community residents) verification; or~~

24 ~~“(C) certified birth records.~~

1 “(5) NATIVE HAWAIIAN HOUSING AUTHOR-
 2 ITY.—The term ‘Native Hawaiian Housing Author-
 3 ity’ means any public body (or agency or instrumen-
 4 tality thereof) established under the laws of the
 5 State of Hawaii, that is authorized to engage in or
 6 assist in the development or operation of low-income
 7 housing for Native Hawaiians.

8 “(6) NATIVE HAWAIIAN LANDS.—The term
 9 ‘Native Hawaiian lands’ means the area within
 10 which a Native Hawaiian Housing Authority is au-
 11 thorized to provide low-income housing.

12 “(7) SECRETARY.—The term ‘Secretary’ means
 13 the Secretary of Housing and Urban Development.

14 “(8) STANDARD HOUSING.—The term ‘standard
 15 housing’ means a dwelling unit or housing that com-
 16 plies with the requirements established under sub-
 17 section (j).”.

18 **TITLE II—HOME INVESTMENT**
 19 **PARTNERSHIPS**

20 **SEC. 201. NATIVE HAWAIIAN ELIGIBILITY FOR THE HOME**
 21 **PROGRAM.**

22 Section 217(a) of the Cranston-Gonzalez National
 23 Affordable Housing Act (42 U.S.C. 12747(a)) is amend-
 24 ed—

1 (1) in paragraph (1), by inserting “, and after
2 reserving amounts under paragraph (4) for Native
3 Hawaiian Housing Authorities” after “insular
4 areas,”; and

5 (2) by adding at the end the following new
6 paragraph:

7 “(4) NATIVE HAWAIIAN ALLOCATION.—

8 “(A) IN GENERAL.—For each fiscal year,
9 of the amount approved in an appropriations
10 Act to carry out this title, the Secretary shall
11 reserve for grants to Native Hawaiian Housing
12 Authorities 0.2 percent of the amount appro-
13 priated under such section.

14 “(B) DEFINITION.—As used in this sec-
15 tion, the term ‘Native Hawaiian Housing Au-
16 thority’ has the same meaning as in section 402
17 of the United States Housing Act of 1937.”.

18 **TITLE III—COMMUNITY**

19 **DEVELOPMENT BLOCK GRANTS**

20 **SEC. 301. NATIVE HAWAIIAN ELIGIBILITY FOR CDBG.**

21 Section 109(d) of the Housing and Community De-
22 velopment Act of 1974 (42 U.S.C. 5309(d)) is amended
23 by inserting “or to a Native Hawaiian Housing Authority”
24 before the period.

1 **SEC. 302. NATIVE HAWAIIAN ALLOCATION.**

2 Section 106(a) of the Housing and Community De-
3 velopment Act of 1974 (42 U.S.C. 5306(a)) is amended—

4 (1) in paragraph (1), in the first sentence, by
5 inserting “, and shall reserve for grants to a Native
6 Hawaiian Housing Authority 0.2 percent of the
7 amount appropriated under such section” before the
8 period; and

9 (2) in paragraph (2), by inserting “and a Na-
10 tive Hawaiian Housing Authority” after “Indian
11 tribes”.

12 **SEC. 303. DEFINITIONS.**

13 Section 102(a) of the Housing and Community De-
14 velopment Act of 1974 (42 U.S.C. 5302(a)) is amended
15 by adding at the end the following new paragraph:

16 “(24) The terms ‘Hawaiian Home Lands’ and
17 ‘Native Hawaiian Housing Authority’ have the same
18 meanings as in section 402 of the United States
19 Housing Act of 1937.”.

20 **TITLE IV—HOUSING STANDARDS**

21 **SEC. 401. HOUSING SUBDIVISION DEVELOPMENT.**

22 The Secretary may, in the discretion of the Secretary,
23 exempt housing developed by a Native Hawaiian Housing
24 Authority from building codes and standards related to
25 the development and construction of subdivisions.

1 **SEC. 402. DEMONSTRATION PROJECT TO DEVELOP LOCAL-**
 2 **IZED HOUSING STANDARDS FOR NATIVE HA-**
 3 **WAHIAN COMMUNITIES.**

4 The Secretary shall award a grant to a Native Hawai-
 5 ian Housing Authority for the purpose of establishing a
 6 demonstration project to develop localized housing stand-
 7 ards for Native Hawaiian communities, including the con-
 8 sideration of modifications to the National Building Code
 9 and other applicable codes and standards. The purpose of
 10 the demonstration project shall be to develop housing
 11 standards reflective of Native Hawaiian community needs
 12 while simultaneously ensuring the availability of and ac-
 13 cess to private, State, and federally assisted housing, fi-
 14 nance, mortgage, and insurance programs.

15 **TITLE V—GENERAL PROVISIONS**

16 **SEC. 501. DEFINITIONS.**

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

19 (1) NATIVE HAWAIIAN HOUSING AUTHORITY.—

20 The term “Native Hawaiian Housing Authority”
 21 means any public body (or agency or instrumentality
 22 thereof) established under the laws of the State of
 23 Hawaii, that is authorized to engage in or assist in
 24 the development or operation of low-income housing
 25 for Native Hawaiians.

1 (2) NATIVE HAWAIIAN.—The term “Native Ha-
2 waiian” means any individual who is a descendant of
3 the aboriginal people who, prior to 1778, occupied
4 and exercised sovereignty in the area that now con-
5 stitutes the State of Hawaii, as evidenced by—

6 (A) genealogical records;

7 (B) Kupuna (elders) or Kama’aina (long-
8 term community residents) verification; or

9 (C) certified birth records.

10 (3) HAWAIIAN HOME LANDS.—The term “Ha-
11 waiian Home Lands” means those lands set aside
12 for homesteading by Native Hawaiians under the
13 Hawaiian Homes Commission Act, 1920.

14 **SEC. 502. LEGAL OBLIGATIONS OF THE UNITED STATES.**

15 Nothing in this Act shall be construed to diminish
16 or expand the legal obligations of the United States to-
17 ward the beneficiaries of the Hawaiian Homes Commis-
18 sion Act, 1920, or the Act entitled “An Act to provide
19 for the admission of the State of Hawaii into the Union”,
20 approved March 18, 1959 (73 Stat. 4).

21 **SEC. 503. SEVERABILITY.**

22 If any provision of this Act, or the application or any
23 provision of this Act to any person or circumstance, is held
24 invalid, the application of each provision or circumstance

1 and the remainder of this Act shall not be affected there-
 2 by.

3 **SEC. 504. REGULATIONS.**

4 (a) **ISSUANCE.**—Except as otherwise provided in this
 5 title, the Secretary shall issue such regulations as may be
 6 necessary to carry out this title.

7 (b) **CONSULTATION.**—In formulating proposed regu-
 8 lations under this section, the Secretary shall consult with
 9 the Department of Hawaiian Homelands and a Native Ha-
 10 waiian Housing Authority.

11 (c) **EFFECTIVE DATE.**—The regulations issued under
 12 this section shall become effective not later than 18
 13 months after the date of enactment of this Act.

14 **SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated such sums
 16 as may be necessary to carry out this Act.

17 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

18 (a) **SHORT TITLE.**—*This Act may be cited as the “Na-
 19 tive Hawaiian Housing Assistance Act of 1994”.*

20 (b) **TABLE OF CONTENTS.**—*The table of contents for
 21 this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Declaration of policy.

Sec. 4. Purposes.

TITLE I—HOUSING ASSISTANCE

Sec. 101. General provisions.

Sec. 102. Loan guarantees for Native Hawaiian housing.

TITLE II—HOME INVESTMENT PARTNERSHIPS

Sec. 201. Native Hawaiian eligibility for the HOME program.

TITLE III—COMMUNITY DEVELOPMENT BLOCK GRANTS

Sec. 301. Native Hawaiian eligibility for CDBG.

Sec. 302. Native Hawaiian allocation.

Sec. 303. Definitions.

TITLE IV—HOUSING STANDARDS

Sec. 401. Housing subdivision development.

Sec. 402. Demonstration project to develop localized housing standards for Native Hawaiian communities.

TITLE V—GENERAL PROVISIONS

Sec. 501. Definitions.

Sec. 502. Designations by the Secretary.

Sec. 503. Availability of assistance.

Sec. 504. Legal obligations of the United States.

Sec. 505. Severability.

Sec. 506. Regulations.

Sec. 507. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 *The Congress makes the following findings:*

3 *(1) Native Hawaiians are a distinct and unique*
 4 *indigenous people with a historical continuity to the*
 5 *original inhabitants of the Hawaiian archipelago*
 6 *whose society was organized as a Nation and inter-*
 7 *nationally recognized as such by the United States,*
 8 *Great Britain, France, and Japan, as evidenced by*
 9 *treaties governing friendship, commerce, and naviga-*
 10 *tion.*

11 *(2) At the time of the arrival of the first*
 12 *nonindigenous people in Hawaii in 1778, the Native*
 13 *Hawaiian people lived in a highly organized, self-suf-*
 14 *ficient subsistence social system based on a communal*

1 *land tenure system with a sophisticated language,*
2 *culture, and religion.*

3 (3) *It is estimated that there were 1,000,000 Na-*
4 *tive Hawaiians inhabiting Hawaii at the time of the*
5 *arrival of the first nonindigenous people in 1778. Due*
6 *to the devastating physical, cultural, social, emo-*
7 *tional, and spiritual effects of western contact, how-*
8 *ever, the Native Hawaiian population was nearly*
9 *decimated. In 1826, the population had decreased to*
10 *an estimated 142,650 Hawaiians.*

11 (4) *In 1893, the sovereign, independent, inter-*
12 *nationally recognized, and indigenous government of*
13 *Hawaii, the Kingdom of Hawaii, was overthrown by*
14 *a small group of non-Hawaiians, including United*
15 *States citizens, who were assisted in their efforts by*
16 *the United States Minister, a United States naval*
17 *representative, and armed naval forces of the United*
18 *States. As a result of the participation of United*
19 *States agents and citizens in the overthrow of the*
20 *Kingdom of Hawaii, the Congress, on behalf of the*
21 *people of the United States, apologized to Native Ha-*
22 *waiians for the overthrow and the deprivation of the*
23 *rights of Native Hawaiians to self determination in*
24 *the Joint Resolution entitled “Joint Resolution to ac-*
25 *knowledge the 100th anniversary of the January 17,*

1 *1893 overthrow of the Kingdom of Hawaii, and to*
2 *offer an apology to Native Hawaiians on behalf of the*
3 *United States for the overthrow of the Kingdom of*
4 *Hawaii,” approved November 23, 1993 (Public Law*
5 *103–150; 107 Stat. 1510).*

6 *(5) In 1898, the Joint Resolution entitled “Joint*
7 *Resolution to provide for annexing the Hawaiian Is-*
8 *lands to the United States”, approved July 7, 1898*
9 *(30 Stat. 750), ceded absolute title of all public lands*
10 *held by the Republic of Hawaii, including the govern-*
11 *ment and crown lands of the former Kingdom of Ha-*
12 *waii, to the United States, but mandated that a por-*
13 *tion of the revenue generated from these lands be used*
14 *“solely for the benefit of the inhabitants of the Hawai-*
15 *ian Islands for educational and other public pur-*
16 *poses”.*

17 *(6) By 1919, the Native Hawaiian population*
18 *had declined to an alarmingly low number of 22,600*
19 *people, and in recognition of this severe decline, the*
20 *Congress in 1921 enacted the Hawaiian Homes Com-*
21 *mission Act, 1920, which designated approximately*
22 *200,000 acres of ceded public lands for homesteading*
23 *by Native Hawaiians.*

24 *(7) Through the enactment of the Hawaiian*
25 *Homes Commission Act, 1920, the Congress affirmed*

1 *the special relationship between the United States and*
2 *the Native Hawaiians, as expressed by then Secretary*
3 *of the Interior Franklin K. Lane, who was quoted in*
4 *the committee report for the Hawaiian Homes Com-*
5 *mission Act, 1920 as stating: “One thing that im-*
6 *pressed me . . . was the fact that the natives of the*
7 *islands who are our wards, I should say, and for*
8 *whom in a sense we are trustees, are falling off rap-*
9 *idly in numbers and many are in poverty.”.*

10 (8) *In 1959, under the Act entitled “An Act to*
11 *provide for the admission of the State of Hawaii into*
12 *the Union”, approved March 18, 1959 (73 Stat. 4),*
13 *the United States transferred responsibility for the*
14 *administration of the Hawaiian home lands to the*
15 *State of Hawaii but reaffirmed the special relation-*
16 *ship which existed between the United States and the*
17 *Hawaiian people by retaining the power to enforce*
18 *the trust, including, but not limited to, the power to*
19 *approve land exchanges and legislative amendments*
20 *affecting the rights of beneficiaries under such Act.*

21 (9) *In 1959, under the Act entitled “An Act to*
22 *provide for the admission of the State of Hawaii into*
23 *the Union”, approved March 18, 1959 (73 Stat. 4),*
24 *the United States ceded to the State of Hawaii title*
25 *to the public lands formerly held by the United*

1 *States, but mandated that such lands be held by the*
2 *State “in public trust” and reaffirmed the special re-*
3 *lationship which existed between the United States*
4 *and the Hawaiian people by retaining the legal re-*
5 *sponsibility to enforce the public trust responsibility*
6 *for the betterment of the conditions of Native Hawai-*
7 *ians (as defined in the Hawaiian Homes Commission*
8 *Act, 1920).*

9 *(10) The United States assumed special respon-*
10 *sibilities for Native Hawaiian lands and resources at*
11 *the time of the annexation of the Territory in 1898,*
12 *upon adoption of the Hawaiian Homes Commission*
13 *Act, 1920, in 1921, and upon admission of the State*
14 *of Hawaii into the Union in 1959, and has retained*
15 *certain of those responsibilities.*

16 *(11) In recognition of the special relationship*
17 *which exists between the United States and the Native*
18 *Hawaiian people, the United States has extended to*
19 *Native Hawaiians the same rights and privileges ac-*
20 *corded to American Indian, Alaska Native, Eskimo,*
21 *and Aleut communities under the Native American*
22 *Programs Act of 1974, the American Indian Religious*
23 *Freedom Act, the National Museum of the American*
24 *Indian Act, the Native American Graves Protection*

1 *and Repatriation Act, the National Historic Preser-*
2 *vation Act, and the Native American Languages Act.*

3 (12) *In recognition of the special relationship*
4 *which exists between the United States and the Native*
5 *Hawaiian people, the Congress has enacted numerous*
6 *special provisions of law for the benefit of Native Ha-*
7 *waiians in the areas of health, education, and labor,*
8 *including those found in the Older Americans Act of*
9 *1965, the Developmental Disabilities Assistance and*
10 *Bill of Rights Act Amendments of 1987, the Veterans'*
11 *Benefits and Services Act of 1988, the Native Hawai-*
12 *ian Health Care Act of 1988, and the Native Hawai-*
13 *ian Education Act of 1988.*

14 (13) *The special relationship which exists be-*
15 *tween the United States and the Native Hawaiian*
16 *people has also been consistently recognized and af-*
17 *firmed by the Congress in the area of housing—*

18 (A) *through the authorization of mortgage*
19 *loans insured by the Federal Housing Adminis-*
20 *tration for the purchase, construction, or refi-*
21 *nancing of homes on Hawaiian home lands*
22 *under the National Housing Act;*

23 (B) *by mandating Native Hawaiian rep-*
24 *resentation on the National Commission on*
25 *American Indian, Alaska Native, and Native*

1 *Hawaiian Housing (hereafter in this Act re-*
2 *ferred to as the “Commission”); and*

3 *(C) by the inclusion of Native Hawaiians*
4 *in the Native American Veterans’ Home Loan*
5 *Equity Act of 1993.*

6 *(14) Despite the enactment of housing programs*
7 *for Native Hawaiians, the housing needs of Native*
8 *Hawaiians continue to be severe, and in 1991, the*
9 *Congress acknowledged the seriousness of the Native*
10 *Hawaiian housing needs through the establishment of*
11 *the Commission.*

12 *(15) In 1993, the Commission concluded in its*
13 *report that the unique circumstances of Native Ha-*
14 *waiians required that new legislation be enacted to*
15 *alleviate and address the severe housing needs of the*
16 *Native Hawaiians. Among the Commission’s findings*
17 *were that—*

18 *(A) Native Hawaiians are seriously over-*
19 *represented in the State’s homeless population;*

20 *(B) of those applicants on the waiting list*
21 *for Hawaiian home lands, 19.5 percent of the*
22 *applicants and 17.8 percent of their spouses are*
23 *unemployed, a substantially higher rate than the*
24 *general State population;*

1 (C) the average Native Hawaiian household
2 size is 4.25 persons, as compared to the statewide
3 average of 2.97 persons; and

4 (D) the median Native Hawaiian family
5 income is substantially below the 1988 State av-
6 erage of \$39,600.

7 (16) The Commission further found that Native
8 Hawaiians have the worst housing conditions in the
9 State of Hawaii and the highest percentage of home-
10 lessness, representing over 30 percent of the State's
11 homeless population and that Native Hawaiians, like
12 American Indians and Alaska Natives, suffer lack of
13 access to conventional financing due to the trust sta-
14 tus of their home lands and a frequent inability to
15 meet income requirements.

16 (17) The Commission recommended that the
17 Congress remedy the housing problems facing Native
18 Hawaiians by extending to them the same Federal
19 housing assistance available to American Indians and
20 Alaska Natives under the Low-Income Rental, Mutual
21 Help, Loan Guarantee, and Community Development
22 Block Grant programs of the Department of Housing
23 and Urban Development.

24 (18) Despite the creation of Federal housing pro-
25 grams designed to benefit low- and moderate-income

1 *families, Native Hawaiian families residing on Ha-*
2 *waiian home lands have been precluded from access*
3 *to these programs because of the exclusive nature of*
4 *the trust lands, thus denying to Native Hawaiians*
5 *those same benefits available to all other qualified*
6 *Americans.*

7 *(19) In 1993, the United States, in recognition*
8 *of the housing needs of all Native Hawaiian families,*
9 *whether residing on the Hawaiian home lands or off,*
10 *included Native Hawaiians in an assessment of*
11 *American Indian and Alaska Native housing needs*
12 *being conducted by the Urban Institute for the De-*
13 *partment of Housing and Urban Development.*

14 *(20) The utilization of ceded lands for the pur-*
15 *pose of developing housing for Native Hawaiians is*
16 *consistent with 2 of the 5 purposes set forth in section*
17 *5(f) of "An Act to provide for the admission of the*
18 *State of Hawaii into the Union", approved March 18,*
19 *1959 (73 Stat. 4). Specifically, such utilization is for*
20 *the betterment of the conditions of Native Hawaiians*
21 *(as defined in the Hawaiian Homes Commission Act,*
22 *1920) and for the development of farm and home-*
23 *ownership on as widespread a basis as possible.*

1 **SEC. 3. DECLARATION OF POLICY.**

2 *The Congress declares that it is the policy of the United*
3 *States—*

4 *(1) to promote the general welfare of the Nation*
5 *by employing its funds and credit, as provided in this*
6 *Act, to remedy the unsafe and unsanitary housing*
7 *conditions and the acute shortage of decent, safe, and*
8 *sanitary dwellings for families of lower income and,*
9 *consistent with the objectives of this Act, to vest in*
10 *local housing agencies the maximum amount of re-*
11 *sponsibility in the administration of their housing*
12 *programs;*

13 *(2) to remedy the severe housing crisis within the*
14 *Native Hawaiian community, consistent with the*
15 *United States' special responsibilities and legal obli-*
16 *gations to the indigenous people of Hawaii resulting*
17 *from the unique and historical relationship between*
18 *the United States and the Native Hawaiian people;*
19 *and*

20 *(3) to encourage the maximum participation of*
21 *Native Hawaiian communities and community-based*
22 *organizations in the planning and development of*
23 *housing programs established under this Act.*

24 **SEC. 4. PURPOSES.**

25 *The purposes of this Act are—*

1 (1) to amend the United States Housing Act of
2 1937 by adding a new title to establish and imple-
3 ment a general program of assisted housing for Native
4 Hawaiians;

5 (2) to amend the Housing and Community De-
6 velopment Act of 1992 to establish and implement a
7 loan guarantee program for Native Hawaiians;

8 (3) to amend the Cranston-Gonzalez National Af-
9 fordable Housing Act to establish Native Hawaiian
10 eligibility for the HOME program; and

11 (4) to amend the Housing and Community De-
12 velopment Act of 1974 to provide eligibility, alloca-
13 tion, and fund distribution to Native Hawaiians for
14 community development block grants.

15 **TITLE I—HOUSING ASSISTANCE**

16 **SEC. 101. GENERAL PROVISIONS.**

17 The United States Housing Act of 1937 (42 U.S.C.
18 1437 et seq.) is amended by adding at the end the following
19 new title:

1 **“TITLE IV—ASSISTED HOUSING**
2 **FOR NATIVE HAWAIIANS**

3 **“SEC. 401. GENERAL AUTHORITY TO PROVIDE ASSISTED**
4 **HOUSING FOR NATIVE HAWAIIANS.**

5 “(a) *IN GENERAL.*—The Secretary shall carry out pro-
6 grams to provide low-income housing on Native Hawaiian
7 lands in accordance with the provisions of this title.

8 “(b) *INAPPLICABILITY OF TITLES I AND II.*—No provi-
9 sion of title I or title II shall apply to housing developed
10 or operated pursuant to a contract between the Secretary
11 and a Native Hawaiian Housing Authority under this title,
12 unless the provision or a provision of this title explicitly
13 provides for such applicability.

14 **“SEC. 402. DEFINITIONS.**

15 “*For purposes of this title, the following definitions*
16 *shall apply:*

17 “(1) *ADJUSTED INCOME.*—The term ‘adjusted in-
18 come’ means the income which remains after exclud-
19 ing—

20 “(A) \$550 for each member of the family re-
21 siding in the household (other than the head of
22 the household or their spouse) who is under 18
23 years of age or who is 18 years of age or older
24 and is disabled or handicapped or a full-time
25 student;

1 “(B) \$400 for any elderly family;

2 “(C) the amount by which the aggregate of
3 the following expenses of the family exceeds 3
4 percent of annual family income—

5 “(i) medical expenses for any family;

6 and

7 “(ii) reasonable attendant care and
8 auxiliary apparatus expenses for each
9 handicapped member of any family, to the
10 extent necessary to enable any member of
11 such family (including such handicapped
12 member) to be employed;

13 “(D)(i) child care expenses to the extent nec-
14 essary to enable another member of the family to
15 be employed or to further such family member’s
16 education; or

17 “(ii) excessive travel expenses, not to exceed
18 \$25 per family per week, for employment or edu-
19 cation related travel, except that this clause shall
20 apply only to families assisted by a Native Ha-
21 waiian Housing Authority;

22 “(E) 10 percent of the earned income of the
23 family; and

24 “(F) any payment made by a member of
25 the family for the support and maintenance of

1 *any child, spouse, or former spouse who does not*
2 *reside in the household, except that the amount*
3 *excluded under this subparagraph shall not ex-*
4 *ceed the lesser of—*

5 *“(i) the amount that such family mem-*
6 *ber has a legal obligation to pay; or*

7 *“(ii) \$550 for each individual for*
8 *whom such payment is made.*

9 *“(2) COMMUNITY-BASED.—The term ‘commu-*
10 *nity-based’ means an organization that—*

11 *“(A) is composed primarily of Native Ha-*
12 *waiians;*

13 *“(B) is representative of a Native Hawai-*
14 *ian community or a significant segment of such*
15 *a community; and*

16 *“(C) is engaged in providing housing or re-*
17 *lated services to Native Hawaiians.*

18 *“(3) DEPARTMENT OF HAWAIIAN HOME LANDS.—*
19 *The term ‘Department of Hawaiian Home Lands’*
20 *means the department of the State of Hawaii that is*
21 *responsible for the administration of the Hawaiian*
22 *Homes Commission Act, 1920.*

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

1 “(5) *HAWAIIAN HOME LANDS.*—The term ‘Ha-
2 *waiian home lands*’ means those lands set aside for
3 *homesteading by Native Hawaiians under the Hawai-*
4 *ian Homes Commission Act, 1920, and any other*
5 *lands acquired pursuant to such Act.*

6 “(6) *INCOME.*—The term ‘income’ means income
7 *from all sources of each member of a household, as de-*
8 *termined in accordance with criteria prescribed by*
9 *the Secretary.*

10 “(7) *LOW-INCOME HOUSING.*—The term ‘low-in-
11 *come housing*’ means decent, safe, and sanitary dwell-
12 *ings assisted under this title.*

13 “(8) *LOW-INCOME FAMILIES.*—The term ‘low-in-
14 *come families*’ means families whose incomes do not
15 *exceed 80 percent of the median income for the area,*
16 *as determined by the Secretary with adjustments for*
17 *smaller and larger families, except that the Secretary*
18 *may establish income ceilings higher or lower than 80*
19 *percent of the median for the area on the basis of the*
20 *Secretary’s findings that such variations are nec-*
21 *essary because of prevailing levels of construction*
22 *costs or unusually high or low family incomes.*

23 “(9) *NATIVE HAWAIIAN.*—The term ‘Native Ha-
24 *waiian*’ means any individual who is a descendant of
25 *the aboriginal people who, prior to 1778, occupied*

1 *and exercised sovereignty in the area that now con-*
2 *stitutes the State of Hawaii, as evidenced by—*

3 “(A) *genealogical records;*

4 “(B) *Kupuna (elders) or Kama’aina (long-*
5 *term community residents) verification; or*

6 “(C) *certified birth, marriage, or death*
7 *records.*

8 “(10) *NATIVE HAWAIIAN HOUSING AUTHORITY.—*

9 *The term ‘Native Hawaiian Housing Authority’*
10 *means any public body (or agency or instrumentality*
11 *thereof) established under the laws of the State of Ha-*
12 *waii, that is authorized to engage in or assist in the*
13 *development or operation of low-income housing for*
14 *Native Hawaiians.*

15 “(11) *NATIVE HAWAIIAN LANDS.—The term ‘Na-*

16 *tive Hawaiian lands’ means the area within which a*
17 *Native Hawaiian Housing Authority is authorized to*
18 *provide low-income housing. The term may include—*

19 “(A) *Hawaiian home lands;*

20 “(B) *ceded public lands; and*

21 “(C) *other lands traditionally occupied by*
22 *Native Hawaiians.*

23 “(12) *NONPROFIT HOUSING CORPORATION.—The*

24 *term ‘nonprofit housing corporation’ means a cor-*
25 *poration that—*

1 “(A) is exempt from taxation under section
2 501(c)(3) of the Internal Revenue Code of 1986;

3 “(B) is not a governmental entity; and

4 “(C) is representative of a community or a
5 significant segment of a community or is en-
6 gaged in providing services to the community.

7 “(13) SECRETARY.—The term ‘Secretary’ means
8 the Secretary of Housing and Urban Development.

9 “(14) PUBLIC HOUSING TERMS.—As used in ref-
10 erence to public housing, the following definitions
11 shall apply:

12 “(A) DEVELOPMENT.—The term ‘develop-
13 ment’ means any or all undertakings necessary
14 for planning, land acquisition, demolition, con-
15 struction, or equipment, in connection with a
16 low-income housing project;

17 “(B) DEVELOPMENT COST.—The term ‘de-
18 velopment cost’ comprises the costs incurred by a
19 housing authority in development undertakings
20 and their necessary financing (including the
21 payment of carrying charges), and in otherwise
22 carrying out the development of a housing
23 project. Construction activity in connection with
24 a low-income housing project may be confined to

1 *the reconstruction, remodeling, or repair of exist-*
2 *ing buildings.*

3 “(C) OPERATION.—

4 “(i) IN GENERAL.—The term ‘oper-

5 ation’ means any or all undertakings ap-

6 propriate for management, operation, serv-

7 ices, maintenance, security (including the

8 cost of security personnel), or financing in

9 connection with a low-income housing

10 project. The term also means the financing

11 of tenant programs and services for families

12 residing in low-income housing projects,

13 particularly where there is maximum fea-

14 sible participation of the tenants in the de-

15 velopment and operation of such tenant

16 programs and services. To the maximum ex-

17 tent available and appropriate, existing

18 public and private agencies in the commu-

19 nity shall be used for the provision of such

20 tenant services.

21 “(ii) TENANT PROGRAMS AND SERV-

22 ICES.—For purposes of this subparagraph,

23 the term ‘tenant programs and services’ in-

24 cludes—

1 “(I) the development and mainte-
2 nance of tenant organizations that
3 participate in the management of low-
4 income housing projects;

5 “(II) the training of tenants to
6 manage and operate such projects and
7 the utilization of their services in
8 project management and operation;

9 “(III) counseling on household
10 management, housekeeping, budgeting,
11 money management, child care, and
12 similar matters;

13 “(IV) advice as to resources for
14 job training and placement, education,
15 welfare, health, and other community
16 services;

17 “(V) services that are directly re-
18 lated to meeting tenant needs and pro-
19 viding a wholesome living environ-
20 ment; and

21 “(VI) referral to appropriate
22 agencies in the community when nec-
23 essary for the provision of such serv-
24 ices.

1 *family paying rent under section 8(c)(3)(B)) an*
2 *amount (rounded to the nearest dollar) equal to the*
3 *greatest of the following:*

4 *“(A) Twenty percent of the family’s month-*
5 *ly adjusted income.*

6 *“(B) Ten percent of the family’s monthly*
7 *income.*

8 *“(C) If the family is receiving payments for*
9 *welfare assistance from a public agency, and a*
10 *part of such payments, adjusted in accordance*
11 *with the family’s actual housing costs, is specifi-*
12 *cally designated by such agency to meet the fam-*
13 *ily’s housing costs, the portion of such payments*
14 *which is so designated.*

15 *“(2) PUBLIC HOUSING PROJECTS.—With respect*
16 *to families residing in housing projects owned and*
17 *operated by a Native Hawaiian Housing Authority,*
18 *the housing authority may charge monthly rent in an*
19 *amount determined by the housing authority to be ap-*
20 *propriate, which amount shall not exceed a maximum*
21 *amount established by the housing authority and ap-*
22 *proved by the Secretary.*

1 **“SEC. 407. MUTUAL HELP HOMEOWNERSHIP OPPORTUNITY**
2 **PROGRAM FOR NATIVE HAWAIIAN FAMILIES.**

3 “(a) *ESTABLISHMENT.*—*The Secretary shall carry out*
4 *a mutual help homeownership opportunity program for Na-*
5 *tive Hawaiian families in accordance with this section. The*
6 *program shall be designed to meet the homeownership needs*
7 *of Native Hawaiian families, including families whose in-*
8 *comes exceed the levels established for low-income families.*

9 “(b) *ELIGIBLE FAMILIES.*—

10 “(1) *IN GENERAL.*—*Except as provided in para-*
11 *graph (2), assistance under this section shall be lim-*
12 *ited to Native Hawaiian low-income families.*

13 “(2) *EXCEPTION.*—*A Native Hawaiian Housing*
14 *Authority may provide assistance under this section*
15 *to families whose incomes exceed the levels established*
16 *for low-income families, if the Native Hawaiian*
17 *Housing Authority demonstrates to the satisfaction of*
18 *the Secretary that there is a need for housing for such*
19 *families that cannot reasonably be met without such*
20 *assistance.*

21 “(c) *MUTUAL HELP AND OCCUPANCY AGREEMENT.*—
22 *The Native Hawaiian Housing Authority shall require each*
23 *family selected for housing under this section to enter into*
24 *a mutual help and occupancy agreement. The agreement*
25 *shall provide the following:*

1 “(1) *FAMILY CONTRIBUTION.*—*The family shall*
2 *agree to contribute toward the development cost of a*
3 *project in the form of land, labor, cash, materials, or*
4 *equipment.*

5 “(2) *MONTHLY PAYMENT.*—*The family shall*
6 *agree to make a monthly payment to the Native Ha-*
7 *waiian Housing Authority in an amount equal to the*
8 *greater of the following:*

9 “(A) *PERCENTAGE OF ADJUSTED INCOME.*—
10 *An amount computed by—*

11 “(i) *multiplying the monthly adjusted*
12 *income of the family by a percentage that*
13 *is not less than 15 percent and not more*
14 *than 30 percent, as determined by the Na-*
15 *tive Hawaiian Housing Authority to be ap-*
16 *propriate; and*

17 “(ii) *subtracting the estimated monthly*
18 *payments of the family for the reasonable*
19 *use of utilities (excluding telephone service).*

20 “(B) *ADMINISTRATION CHARGE.*—*The*
21 *amount budgeted by the Native Hawaiian Hous-*
22 *ing Authority for monthly operating expenses on*
23 *the dwelling of the family, excluding any operat-*
24 *ing cost for which operating assistance is pro-*
25 *vided by the Secretary under section 9.*

1 “(3) *MAINTENANCE AND UTILITIES.*—The family
2 shall be responsible for the maintenance and monthly
3 utility expenses of the dwelling. The Native Hawaiian
4 Housing Authority shall have in effect procedures de-
5 termined by the Secretary to be sufficient for ensuring
6 the timely periodic maintenance of the dwelling by
7 the family.

8 “(4) *HOMEOWNERSHIP OPPORTUNITIES.*—The
9 Native Hawaiian Housing Authority shall afford the
10 family an opportunity to purchase the dwelling under
11 a lease-purchase mortgage, or loan agreement with the
12 Native Hawaiian Housing Authority or any other
13 qualified entity, if the Native Hawaiian Housing Au-
14 thority determines (in accordance with objective
15 standards and procedures established by the Secretary
16 after consultation with the Native Hawaiian Housing
17 Authority) that the family is able to meet the obliga-
18 tions of homeownership.

19 **“SEC. 408. HAWAIIAN HOUSING MODERNIZATION.**

20 “The Secretary may make available and contract to
21 make available financial assistance (in such amounts as are
22 authorized pursuant to section 413 and as may be approved
23 in appropriations Acts) to Native Hawaiian Housing Au-
24 thorities in accordance with section 14.

1 **“SEC. 409. PUBLIC HOUSING MAXIMUM CONTRIBUTION.**

2 *“In determining the maximum contribution that may*
3 *be made by the Secretary to a Native Hawaiian Housing*
4 *Authority under this title for the development of a housing*
5 *project (including a mutual help homeownership oppor-*
6 *tunity project under section 407), the Secretary shall con-*
7 *sider all relevant factors, including—*

8 *“(1) the logistical problems associated with*
9 *projects of remote location, low density, or scattered*
10 *sites; and*

11 *“(2) the availability of skilled labor and accept-*
12 *able materials.*

13 **“SEC. 410. CONTRACT PROVISIONS AND REQUIREMENTS.**

14 *“(a) IN GENERAL.—The Secretary may include in any*
15 *contract for loans or for the development, acquisition, or*
16 *operation of public housing or any other agreement or in-*
17 *strument made pursuant to this title, such covenants, condi-*
18 *tions, or provisions as the Secretary may determine to be*
19 *necessary in order to insure the lower income character of*
20 *the project involved.*

21 *“(b) TOTAL DEVELOPMENT COST.—*

22 *“(1) IN GENERAL.—Any contract described in*
23 *subsection (a) shall provide that the total development*
24 *cost of the project on which the computation of any*
25 *annual contributions under this title may be based*
26 *may not exceed—*

1 “(A) *the amount determined under para-*
2 *graph (2) (for the appropriate structure type),*
3 *unless the Secretary provides otherwise; or*

4 “(B) *110 percent of the amount determined*
5 *under paragraph (2), unless the Secretary for*
6 *good cause determines otherwise.*

7 “(2) *COMPUTATION.—For purposes of paragraph*
8 *(1), the Secretary shall determine the total develop-*
9 *ment cost of a housing project by multiplying the con-*
10 *struction cost guideline for the project (which shall be*
11 *determined by averaging the current construction*
12 *costs, as listed by not less than 2 nationally recog-*
13 *nized residential construction cost indices, for pub-*
14 *licly bid construction of a good and sound quality)*
15 *by—*

16 “(A) *in the case of elevator-type structures,*
17 *1.6; and*

18 “(B) *in the case of nonelevator-type struc-*
19 *tures, 1.75.*

20 “(3) *APPROVAL OF HIGHER DEVELOPMENT*
21 *COSTS.—For purposes of paragraph (1), the Secretary*
22 *may approve higher development costs, subject to the*
23 *availability of appropriations, if such costs are rea-*
24 *sonable and necessary.*

1 **“SEC. 411. GENERAL PROVISIONS.**

2 “(a) *DUTIES OF THE SECRETARY.*—Notwithstanding
3 any other provision of law, the Secretary, in the perform-
4 ance of, and with respect to, the functions, powers, and du-
5 ties vested in the Secretary by this title, shall—

6 “(1) *prepare annually and submit a budget pro-*
7 *gram as provided for wholly owned Government cor-*
8 *porations by chapter 91 of title 31, United States*
9 *Code; and*

10 “(2) *maintain an integral set of accounts which*
11 *shall be audited annually by the General Accounting*
12 *Office in accordance with the principles and proce-*
13 *dures applicable to commercial transactions as pro-*
14 *vided by chapter 91 of title 31, United States Code,*
15 *and no other audit shall be required.*

16 “(b) *RECEIPTS AND ASSETS.*—All receipts and assets
17 of the Secretary under this title shall be available for the
18 purposes of this title until expended.

19 “(c) *POWERS OF FEDERAL RESERVE BANKS.*—The
20 Federal Reserve banks are authorized and directed to act
21 as depositories, custodians, and fiscal agents for the Sec-
22 retary in the general exercise of the Secretary’s powers
23 under this title. The Secretary may reimburse any such
24 bank for its services in any manner as may be agreed upon.

25 “(d) *RELATED FACILITIES AND SERVICES.*—The Sec-
26 retary shall take such actions as may be necessary to ensure

1 *the timely and efficient provision, through agreements with*
2 *the Native Hawaiian Housing Authority or other entities,*
3 *of any roads, water supply and sewage facilities, and elec-*
4 *trical and fuel distribution systems that are required for*
5 *completion and occupancy of housing projects assisted*
6 *under this title, including mutual help homeownership op-*
7 *portunity projects assisted under section 407.*

8 “(e) *CONTRACT AGENCY.*—*The Secretary shall grant*
9 *Native Hawaiian Housing Authorities the authority to con-*
10 *tract with any Federal, State, local, or nonprofit entity for*
11 *the purposes outlined in subsection (d).*

12 **“SEC. 412. REGULATIONS.**

13 “(a) *ISSUANCE.*—*The Secretary shall issue such regu-*
14 *lations as may be necessary to carry out this title.*

15 “(b) *CONSULTATION WITH NATIVE HAWAIIAN HOUS-*
16 *ING AUTHORITIES.*—*In formulating proposed regulations*
17 *under this section, the Secretary shall consult with Native*
18 *Hawaiian Housing Authorities, including the Department*
19 *of Hawaiian Home Lands.*

20 “(c) *EFFECTIVE DATE.*—*The regulations issued under*
21 *this section shall become effective before the expiration of*
22 *the 180-day period beginning on the date of enactment of*
23 *the Native Hawaiian Housing Assistance Act of 1994.*

1 **“SEC. 413. AUTHORIZATION OF APPROPRIATIONS.**

2 *“There are authorized to be appropriated such sums*
 3 *as may be necessary to carry out this title.”*

4 **SEC. 102. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUS-**
 5 **ING.**

6 *Subtitle E of title I of the Housing and Community*
 7 *Development Act of 1992 (12 U.S.C. 1715z–13a) is amend-*
 8 *ed by adding at the end the following new section:*

9 **“SEC. 187. LOAN GUARANTEES FOR NATIVE HAWAIIAN**
 10 **HOUSING.**

11 *“(a) AUTHORITY.—To provide access to sources of pri-*
 12 *vate financing to Native Hawaiian families and Native*
 13 *Hawaiian Housing Authorities who otherwise could not ac-*
 14 *quire housing financing because of the unique status of the*
 15 *Hawaiian home lands, the Secretary may guarantee not*
 16 *more than 100 percent of the unpaid principal and interest*
 17 *due on any loan eligible under subsection (b) made to a*
 18 *Native Hawaiian family or Native Hawaiian Housing Au-*
 19 *thority.*

20 *“(b) ELIGIBLE LOANS.—Loans guaranteed pursuant*
 21 *to this section shall meet the following requirements:*

22 *“(1) ELIGIBLE BORROWERS.—The loans shall be*
 23 *made only to borrowers who are Native Hawaiian*
 24 *families or Native Hawaiian Housing Authorities.*

25 *“(2) ELIGIBLE HOUSING.—The loans shall be*
 26 *used to construct, acquire, or rehabilitate 1- to 4-fam-*

1 *ily dwellings that are standard housing and are lo-*
2 *cated on Hawaiian home lands or Native Hawaiian*
3 *lands.*

4 “(3) *SECURITY.*—*The loans may be secured by*
5 *any collateral authorized under existing Federal law*
6 *or applicable State law.*

7 “(4) *LENDERS.*—*The loans shall be made only*
8 *by a lender approved by and meeting qualifications*
9 *established by the Secretary, except that loans other-*
10 *wise insured or guaranteed by an agency of the Fed-*
11 *eral Government or made by an organization of Na-*
12 *tive Hawaiians from amounts borrowed from the*
13 *United States shall not be eligible for guarantee under*
14 *this section. The following lenders are deemed to be*
15 *approved under this paragraph:*

16 “(A) *Any mortgagee approved by the Sec-*
17 *retary of Housing and Urban Development for*
18 *participation in the single family mortgage in-*
19 *surance program under title II of the National*
20 *Housing Act.*

21 “(B) *Any lender whose housing loans under*
22 *chapter 37 of title 38, United States Code, are*
23 *automatically guaranteed pursuant to section*
24 *1802(d) of such title.*

1 “(C) Any lender approved by the Secretary
2 of Agriculture to make guaranteed loans for sin-
3 gle family housing under the Housing Act of
4 1949.

5 “(D) Any other lender that is supervised,
6 approved, regulated, or insured by any agency of
7 the Federal Government.

8 “(5) TERMS.—The loan shall—

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

11 “(B) bear interest (exclusive of the guaran-
12 tee fee under subsection (d) and service charges,
13 if any) at a rate agreed upon by the borrower
14 and the lender and determined by the Secretary
15 to be reasonable, which may not exceed the rate
16 generally charged in the area (as determined by
17 the Secretary) for home mortgage loans not guar-
18 anteed or insured by any agency or instrumen-
19 tality of the Federal Government;

20 “(C) involve a principal obligation not ex-
21 ceeding—

22 “(i) an amount equal to the sum of—

23 “(I) 97 percent of \$25,000 of the
24 appraised value of the property, as of

1 *the date the loan is accepted for guar-*
2 *antee; and*

3 “(II) 95 percent of such value in
4 *excess of \$25,000; and*

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

7 “(D) involve a payment on account of the
8 *property—*

9 “(i) in cash or its equivalent; or

10 “(ii) through the value of any improve-
11 *ments to the property made through the*
12 *skilled or unskilled labor of the borrower;*

13 *as the Secretary shall provide.*

14 “(c) *CERTIFICATE OF GUARANTEE.—*

15 “(1) *APPROVAL PROCESS.—The Secretary shall*
16 *not approve any loan for guarantee under this section*
17 *until the lender submits a completed application for*
18 *the loan to the Secretary for examination in accord-*
19 *ance with this subsection. If the Secretary approves*
20 *the loan for guarantee, the Secretary shall issue a cer-*
21 *tificate of guarantee in accordance with this sub-*
22 *section.*

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

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

3 “(3) *EFFECT.*—*A certificate of guarantee issued*
4 *under this subsection shall be conclusive evidence of*
5 *the eligibility of the loan for guarantee and the*
6 *amount of such guarantee. Such evidence shall be in-*
7 *contestable in the hands of the bearer and the full*
8 *faith and credit of the United States is pledged to the*
9 *payment of all amounts agreed to be paid by the Sec-*
10 *retary as security for such obligations.*

11 “(4) *FRAUD AND MISREPRESENTATION.*—*This*
12 *subsection may not be construed to preclude the Sec-*
13 *retary from establishing defenses against the original*
14 *lender based on fraud or material misrepresentation*
15 *or to bar the Secretary from establishing by regula-*
16 *tions in effect on the date of issuance or disbursement,*
17 *whichever is earlier, partial defenses to the amount*
18 *payable on the guarantee.*

19 “(d) *GUARANTEE FEE.*—*The Secretary shall fix and*
20 *collect a guarantee fee for the guarantee of loans under this*
21 *section, which shall not exceed the amount equal to 1 per-*
22 *cent of the principal obligation of the loan. The fee shall*
23 *be paid by the lender at the time of issuance of the guaran-*
24 *tee and shall be adequate, in the determination of the Sec-*
25 *retary, to cover expenses and probable losses. The Secretary*

1 *shall deposit any fees collected under this subsection in the*
2 *Native Hawaiian Housing Loan Guarantee Fund estab-*
3 *lished under subsection (i).*

4 “(e) *LIABILITY UNDER GUARANTEE.*—*The liability*
5 *under a guarantee provided under this section shall de-*
6 *crease or increase on a pro rata basis according to any de-*
7 *crease or increase in the amount of the unpaid obligation*
8 *under the provisions of the loan agreement.*

9 “(f) *TRANSFER AND ASSUMPTION.*—*Notwithstanding*
10 *any other provision of law, any loan guaranteed under this*
11 *section, including the security given for the loan, may be*
12 *sold or assigned by the lender to any financial institution*
13 *subject to examination and supervision by an agency of the*
14 *Federal Government or of any State or the District of Co-*
15 *lumbia.*

16 “(g) *DISQUALIFICATION OF LENDERS AND CIVIL*
17 *MONEY PENALTIES.*—

18 “(1) *IN GENERAL.*—*If the Secretary determines*
19 *that any lender or holder of a guarantee certificate*
20 *under subsection (c) has failed to maintain adequate*
21 *accounting records to adequately service loans guar-*
22 *anteed under this section, to exercise proper credit or*
23 *underwriting judgment, or has engaged in practices*
24 *otherwise detrimental to the interest of a borrower or*
25 *the United States, the Secretary may—*

1 “(A) refuse, either temporarily or perma-
2 nently, to guarantee any additional loans made
3 by such lender or holder;

4 “(B) bar such lender or holder from acquir-
5 ing additional loans guaranteed under this sec-
6 tion; and

7 “(C) require that such lender or holder as-
8 sume not less than 10 percent of any loss on ad-
9 ditional loans made or held by the lender or
10 holder that are guaranteed under this section.

11 “(2) CIVIL MONEY PENALTIES FOR INTENTIONAL
12 VIOLATIONS.—If the Secretary determines that any
13 lender or holder of a guarantee certificate under this
14 section has intentionally failed to maintain adequate
15 accounting records, to adequately service loans guar-
16 anteed under this section, or to exercise proper credit
17 or underwriting judgment, the Secretary may impose
18 a civil money penalty on such lender or holder in the
19 manner and amount provided under section 536 of
20 the National Housing Act with respect to mortgagees
21 and lenders under such Act.

22 “(3) PAYMENT ON LOANS MADE IN GOOD
23 FAITH.—Notwithstanding paragraphs (1) and (2), the
24 Secretary may not refuse to pay pursuant to a valid
25 guarantee on loans of a lender or holder barred under

1 *this subsection if the loans were previously made in*
2 *good faith.*

3 *“(h) PAYMENT UNDER GUARANTEE.—*

4 *“(1) LENDER OPTIONS.—*

5 *“(A) IN GENERAL.—In the event of default*
6 *by the borrower on a loan guarantee under this*
7 *section, the holder of the guarantee certificate*
8 *shall provide written notice of the default to the*
9 *Secretary. Upon providing such notice, the hold-*
10 *er of the guarantee certificate shall be entitled to*
11 *payment under the guarantee (subject to the pro-*
12 *visions of this section) and may proceed to ob-*
13 *tain payment in one of the following manners:*

14 *“(i) FORECLOSURE.—The holder of the*
15 *certificate may initiate foreclosure proceed-*
16 *ings in a court of competent jurisdiction*
17 *(after providing written notice of such ac-*
18 *tion to the Secretary) and upon a final*
19 *order by the court authorizing foreclosure*
20 *and submission to the Secretary of a claim*
21 *for payment under the guarantee, the Sec-*
22 *retary shall pay to the holder of the certifi-*
23 *cate the pro rata portion of the amount*
24 *guaranteed (as determined in accordance*
25 *with subsection (e)) plus reasonable fees and*

1 *expenses as approved by the Secretary. The*
2 *Secretary shall be subrogated to the rights of*
3 *the holder of the guarantee and the holder*
4 *shall assign the obligation and security to*
5 *the Secretary.*

6 “(ii) *NO FORECLOSURE.*—Without
7 *seeking a judicial foreclosure (or in any*
8 *case in which a foreclosure proceeding initi-*
9 *ated under clause (i) continues for a period*
10 *in excess of 1 year), the holder of the guar-*
11 *antee may submit to the Secretary a claim*
12 *for payment under the guarantee and the*
13 *Secretary shall only pay to such holder for*
14 *a loss on any single loan an amount equal*
15 *to 90 percent of the pro rata portion of the*
16 *amount guaranteed (as determined in ac-*
17 *cordance with subsection (e)). The Secretary*
18 *shall be subrogated to the rights of the hold-*
19 *er of the guarantee and the holder shall as-*
20 *sign the obligation and security to the Sec-*
21 *retary.*

22 “(B) *REQUIREMENTS.*—Before any pay-
23 *ment under a guarantee is made under subpara-*
24 *graph (A), the holder of the guarantee shall ex-*
25 *haust all reasonable possibilities of collection.*

1 *Upon payment, in whole or in part, to the hold-*
2 *er, the note or judgment evidencing the debt shall*
3 *be assigned to the United States and the holder*
4 *shall have no further claim against the borrower*
5 *or the United States. The Secretary shall then*
6 *take such action to collect as the Secretary deter-*
7 *mines appropriate.*

8 “(2) *ASSIGNMENT BY SECRETARY.*—*Notwith-*
9 *standing paragraph (1), upon receiving notice of de-*
10 *fault on a loan guaranteed under this section from*
11 *the holder of the guarantee, the Secretary may accept*
12 *assignment of the loan if the Secretary determines*
13 *that the assignment is in the best interests of the*
14 *United States. Upon assignment the Secretary shall*
15 *pay to the holder of the guarantee the pro rata por-*
16 *tion of the amount guaranteed (as determined under*
17 *subsection (e)). The Secretary shall be subrogated to*
18 *the rights of the holder of the guarantee and the hold-*
19 *er shall assign the obligation and security to the Sec-*
20 *retary.*

21 “(3) *LIMITATIONS ON LIQUIDATION.*—*In the*
22 *event of a default by the borrower on a loan guaran-*
23 *teed under this section involving a security interest in*
24 *Hawaiian home lands or Native Hawaiian lands, the*
25 *Secretary shall only pursue liquidation after offering*

1 to transfer the account to a Native Hawaiian Hous-
2 ing Authority. If the Secretary subsequently proceeds
3 to liquidate the account, the Secretary shall not sell,
4 transfer, or otherwise dispose of or alienate the prop-
5 erty except to a Native Hawaiian Housing Authority.

6 “(i) NATIVE HAWAIIAN HOUSING LOAN GUARANTEE
7 FUND.—

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

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

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

18 “(B) any amounts appropriated under
19 paragraph (7);

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

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

1 “(3) *USE.*—Amounts in the Guarantee Fund
2 shall be available, to the extent provided in appro-
3 priation 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 such term is
7 defined in section 502 of the Congressional
8 Budget Act of 1974) of such loans;

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

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

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

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

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

1 *section may be invested in obligations of the United*
2 *States.*

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

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

6 *The authority of the Secretary to enter into com-*
7 *mitments to guarantee loans under this section*
8 *shall be effective for any fiscal year only to the*
9 *extent or in such amounts as are or have been*
10 *provided in appropriation Acts for such fiscal*
11 *year.*

12 *“(B) LIMITATIONS ON COSTS OF GUARAN-*

13 *TEES.—The authority of the Secretary to enter*
14 *into commitments to guarantee loans under this*
15 *section shall be effective for any fiscal year only*
16 *to the extent that amounts in the Guarantee*
17 *Fund are or have been made available in appro-*
18 *priation Acts to cover the costs (as such term is*
19 *defined in section 502 of the Congressional*
20 *Budget Act of 1974) of such loan guarantees for*
21 *such fiscal year.*

22 *“(C) LIMITATION ON OUTSTANDING AGGRE-*

23 *GATE PRINCIPAL AMOUNT.—Subject to the limi-*
24 *tations in subparagraphs (A) and (B), the Sec-*
25 *retary may enter into commitments to guarantee*

1 *loans under this section in each of fiscal years*
2 *1996 and 1997 with an aggregate outstanding*
3 *principal amount not exceeding such amount as*
4 *may be provided in appropriation Acts for each*
5 *such year.*

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

10 “(7) *AUTHORIZATION OF APPROPRIATIONS.*—
11 *There are authorized to be appropriated to the Guar-*
12 *antee Fund such sums as may be necessary to carry*
13 *out this section.*

14 “(j) *REQUIREMENTS FOR STANDARD HOUSING.*—*The*
15 *Secretary shall, by regulation, establish housing safety and*
16 *quality standards for use under this section. Such standards*
17 *shall provide sufficient flexibility to permit the use of var-*
18 *ious designs and materials in housing acquired with loans*
19 *guaranteed under this section. The standards shall require*
20 *each dwelling unit in any housing so acquired to—*

21 “(1) *be decent, safe, and sanitary, and modest in*
22 *size and design; and*

23 “(2) *conform with minimum standards estab-*
24 *lished under any applicable county, State, or na-*
25 *tional building code.*

1 “(k) *DEFINITIONS.*—For purposes of this section, the
2 following definitions shall apply:

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

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

9 “(3) *HAWAIIAN HOME LANDS.*—The term ‘Ha-
10 waiian home lands’ means those lands set aside for
11 homesteading by Native Hawaiians under the Hawai-
12 ian Homes Commission Act, 1920.

13 “(4) *NATIVE HAWAIIAN.*—The term ‘Native Ha-
14 waiian’ means any individual who is a descendant of
15 the aboriginal people who, prior to 1778, occupied
16 and exercised sovereignty in the area that now con-
17 stitutes the State of Hawaii, as evidenced by—

18 “(A) genealogical records;

19 “(B) Kupuna (elders) or Kama’aina (long-
20 term community residents) verification; or

21 “(C) certified birth, marriage, or death
22 records.

23 “(5) *NATIVE HAWAIIAN HOUSING AUTHORITY.*—
24 The term ‘Native Hawaiian Housing Authority’
25 means any public body (or agency or instrumentality

1 *thereof) established under the laws of the State of Ha-*
 2 *waii, that is authorized to engage in or assist in the*
 3 *development or operation of low-income housing for*
 4 *Native Hawaiians.*

5 “(6) *NATIVE HAWAIIAN LANDS.*—*The term ‘Na-*
 6 *tive Hawaiian lands’ means the area within which a*
 7 *Native Hawaiian Housing Authority is authorized to*
 8 *provide low-income housing. The term may include—*

9 “(A) *Hawaiian home lands;*

10 “(B) *ceded public lands; and*

11 “(C) *other lands traditionally occupied by*
 12 *Native Hawaiians.*

13 “(7) *SECRETARY.*—*The term ‘Secretary’ means*
 14 *the Secretary of Housing and Urban Development.*

15 “(8) *STANDARD HOUSING.*—*The term ‘standard*
 16 *housing’ means a dwelling unit or housing that com-*
 17 *plies with the requirements established under sub-*
 18 *section (j).”.*

19 ***TITLE II—HOME INVESTMENT***
 20 ***PARTNERSHIPS***

21 ***SEC. 201. NATIVE HAWAIIAN ELIGIBILITY FOR THE HOME***
 22 ***PROGRAM.***

23 *Section 217(a) of the Cranston-Gonzalez National Af-*
 24 *fordable Housing Act (42 U.S.C. 12747(a)) is amended—*

1 (1) in paragraph (1), by inserting “, and after
2 reserving amounts under paragraph (4) for Native
3 Hawaiian Housing Authorities” after “insular
4 areas,”; and

5 (2) by adding at the end the following new para-
6 graph:

7 “(4) *NATIVE HAWAIIAN ALLOCATION.*—

8 “(A) *IN GENERAL.*—For each fiscal year, of
9 the amount approved in an appropriations Act
10 to carry out this title, the Secretary shall reserve
11 for grants to Native Hawaiian Housing Authori-
12 ties 0.2 percent of the amount appropriated
13 under such section.

14 “(B) *DEFINITION.*—As used in this section,
15 the term ‘Native Hawaiian Housing Authority’
16 has the same meaning as in section 402 of the
17 United States Housing Act of 1937.”.

18 **TITLE III—COMMUNITY**

19 **DEVELOPMENT BLOCK GRANTS**

20 **SEC. 301. NATIVE HAWAIIAN ELIGIBILITY FOR CDBG.**

21 Section 109(d) of the Housing and Community Devel-
22 opment Act of 1974 (42 U.S.C. 5309(d)) is amended by in-
23 serting “or to a Native Hawaiian Housing Authority” be-
24 fore the period.

1 **SEC. 302. NATIVE HAWAIIAN ALLOCATION.**

2 *Section 106(a) of the Housing and Community Devel-*
 3 *opment Act of 1974 (42 U.S.C. 5306(a)) is amended—*

4 *(1) in paragraph (1), in the first sentence, by in-*
 5 *serting “, and shall reserve for grants to Native Ha-*
 6 *waiian Housing Authorities 0.2 percent of the*
 7 *amount appropriated under such section” before the*
 8 *period; and*

9 *(2) in paragraph (2), by inserting “and Native*
 10 *Hawaiian Housing Authorities” after “Indian*
 11 *tribes”.*

12 **SEC. 303. DEFINITIONS.**

13 *Section 102(a) of the Housing and Community Devel-*
 14 *opment Act of 1974 (42 U.S.C. 5302(a)) is amended by add-*
 15 *ing at the end the following new paragraph:*

16 *“(24) The terms ‘Hawaiian home lands’ and*
 17 *‘Native Hawaiian Housing Authority’ have the same*
 18 *meanings as in section 402 of the United States*
 19 *Housing Act of 1937.”.*

20 **TITLE IV—HOUSING STANDARDS**

21 **SEC. 401. HOUSING SUBDIVISION DEVELOPMENT.**

22 *The Secretary may, in the discretion of the Secretary,*
 23 *exempt housing developed by a Native Hawaiian Housing*
 24 *Authority from building codes and standards related to the*
 25 *development and construction of subdivisions.*

1 **SEC. 402. DEMONSTRATION PROJECT TO DEVELOP LOCAL-**
 2 **IZED HOUSING STANDARDS FOR NATIVE HA-**
 3 **WAIIAN COMMUNITIES.**

4 *The Secretary shall award a grant to a Native Hawai-*
 5 *ian Housing Authority for the purpose of establishing a*
 6 *demonstration project to develop localized housing stand-*
 7 *ards for Native Hawaiian communities, including the con-*
 8 *sideration of modifications to the National Building Code*
 9 *and other applicable codes and standards. The purpose of*
 10 *the demonstration project shall be to develop housing stand-*
 11 *ards reflective of Native Hawaiian community needs while*
 12 *simultaneously ensuring the availability of and access to*
 13 *private, State, and federally assisted housing, finance,*
 14 *mortgage, and insurance programs.*

15 **TITLE V—GENERAL PROVISIONS**

16 **SEC. 501. DEFINITIONS.**

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

19 (1) *DEPARTMENT OF HAWAIIAN HOME LANDS.—*
 20 *The term “Department of Hawaiian Home Lands”*
 21 *means the department of the State of Hawaii that is*
 22 *responsible for the administration of the Hawaiian*
 23 *Homes Commission Act, 1920.*

24 (2) *NATIVE HAWAIIAN HOUSING AUTHORITY.—*
 25 *The term “Native Hawaiian Housing Authority”*
 26 *means any public body (or agency or instrumentality*

1 *thereof) established under the laws of the State of Ha-*
2 *waii, that is authorized to engage in or assist in the*
3 *development or operation of low-income housing for*
4 *Native Hawaiians.*

5 (3) *NATIVE HAWAIIAN.*—*The term “Native Ha-*
6 *waiian” means any individual who is a descendant*
7 *of the aboriginal people who, prior to 1778, occupied*
8 *and exercised sovereignty in the area that now con-*
9 *stitutes the State of Hawaii, as evidenced by—*

10 (A) *genealogical records;*

11 (B) *Kupuna (elders) or Kama’aina (long-*
12 *term community residents) verification; or*

13 (C) *certified birth, marriage, or death*
14 *records.*

15 (4) *HAWAIIAN HOME LANDS.*—*The term “Ha-*
16 *waiian home lands” means those lands set aside for*
17 *homesteading by Native Hawaiians under the Hawai-*
18 *ian Homes Commission Act, 1920.*

19 **SEC. 502. DESIGNATIONS BY THE SECRETARY.**

20 (a) *DEPARTMENT OF HAWAIIAN HOME LANDS.*—*The*
21 *Secretary shall designate the Department of Hawaiian*
22 *Home Lands as a Native Hawaiian Housing Authority.*
23 *Upon such designation, the Department shall be eligible to*
24 *receive assistance under this Act for the purpose of engaging*

1 *in or assisting in the development or operation of low-in-*
2 *come housing projects on the Hawaiian home lands.*

3 (b) *NATIVE HAWAIIAN HOUSING AUTHORITY.*—In ad-
4 *dition to the designation made under subsection (a), the*
5 *Secretary shall designate not less than 1 Native Hawaiian*
6 *Housing Authority to be eligible to receive assistance under*
7 *this Act for the purpose of engaging in or assisting in the*
8 *development or operation of low-income housing projects*
9 *throughout the State of Hawaii, including projects which*
10 *may be located on ceded lands and lands traditionally occu-*
11 *pled by Native Hawaiians.*

12 **SEC. 503. AVAILABILITY OF ASSISTANCE.**

13 *Notwithstanding title VI of the Civil Rights Act of*
14 *1964 or title VII of the Act entitled “An Act to prescribe*
15 *penalties for certain acts of violence or intimidation, and*
16 *for other purposes”, approved April 11, 1968 (82 Stat 80),*
17 *assistance may be made available under this Act.*

18 **SEC. 504. LEGAL OBLIGATIONS OF THE UNITED STATES.**

19 *Nothing in this Act shall be construed to diminish or*
20 *expand the legal obligations of the United States toward*
21 *the beneficiaries of the Hawaiian Homes Commission Act,*
22 *1920, or the Act entitled “An Act to provide for the admis-*
23 *sion of the State of Hawaii into the Union”, approved*
24 *March 18, 1959 (73 Stat. 4).*

1 **SEC. 505. SEVERABILITY.**

2 *If any provision of this Act, or the application or any*
3 *provision of this Act to any person or circumstance, is held*
4 *invalid, the application of each provision or circumstance*
5 *and the remainder of this Act shall not be affected thereby.*

6 **SEC. 506. REGULATIONS.**

7 (a) *ISSUANCE.*—*Except as otherwise provided in this*
8 *Act, the Secretary shall issue such regulations as may be*
9 *necessary to carry out this Act.*

10 (b) *CONSULTATION.*—*In formulating proposed regula-*
11 *tions under this section, the Secretary shall consult with*
12 *Native Hawaiian Housing Authorities, including the De-*
13 *partment of Hawaiian Home Lands.*

14 (c) *EFFECTIVE DATE.*—*The regulations issued under*
15 *this section shall become effective not later than 18 months*
16 *after the date of enactment of this Act.*

17 **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

18 *There are authorized to be appropriated such sums as*
19 *may be necessary to carry out this Act.*