

# NEW COMMUNITIES ACT OF 1968



## TITLE IV - GUARANTEES FOR FINANCING NEW COMMUNITY LAND DEVELOPMENT

### *Section 401. Citation*

This section states that the title may be referred to as the "New Communities Act of 1968."

### *Section 402. Purpose*

This section states that the purpose of the title is to encourage, by facilitating the enlistment of private capital in new community developments, the development of new communities that (1) contribute to better living conditions through improved overall community design; (2) make substantial contributions to the sound and economic growth of the areas in which they are located; (3) provide needed additions to the general housing supply; (4) provide opportunities for innovation in housing and community development technology and land use planning; (5) enlarge housing, employment, and investment opportunities; (6) encourage a diversified local homebuilding industry; and (7) include, to the greatest extent feasible, the use of new and improved housing technology, techniques, and materials under programs administered by the Department of Housing and Urban Development with a view toward reducing housing construction, rehabilitation, and maintenance costs and stimulating the increased and sustained production of housing under such programs.

### *Section 403. Guarantee authority*

This section authorizes the Secretary of Housing and Urban Development to guarantee the bonds, debentures, notes, and other obligations issued by new community developers to help finance new community development projects. In making such guarantees the Secretary shall take into account (1) the large initial capital investment required, (2) the extended period before initial returns can be expected, (3) the irregular pattern of cash returns characteristic of such investment, and (4) the financial and security interests of the United States.

### *Section 404. Eligible new community development*

This section states that community development projects are eligible for assistance only if the Secretary determines that (1) the proposed new community will be economically feasible and will contribute to the orderly development of the area of which it is a part; (2) there is a practicable plan (and time schedule) for financing the land acquisition and development costs and for the improvement and marketing of the land which, giving consideration to the purposes of the title and the special problems involved, represents an acceptable financial risk to the United States; (3) there is a sound internal development plan for the new community that meets State and local requirements, provides for a proper balance of housing for families of low and moderate income, and provides satisfactory supporting facilities for its future residents; and (4) the internal development plan is consistent with comprehensive planning for the area in which the new community is situated.

### *Section 405. Eligible obligations*

This section requires any obligation guaranteed to (1) be issued by a new community developer (other than a public body) approved by the Secretary on the basis of financial, technical, and administrative ability; (2) be issued to investors approved by the Secretary or, if there is an offering to the public, be underwritten upon terms approved by the Secretary; (3) be issued to finance a program of land development (including land acquisition or use of land) approved by the Secretary; (4) involve a principal obligation not to exceed the lesser of (A) 80 percent of the Secretary's estimate of the value of the

property upon completion of the land development or (B) the sum of 75 percent of the Secretary's estimate of the value of the land before development and 90 percent of his estimate of the actual cost of the land development; (5) bear interest at a rate satisfactory to the Secretary; (6) contain repayment and maturity provisions satisfactory to the Secretary; and (7) contain such provisions with respect to protection of the security interests of the United States as the Secretary shall prescribe.

With respect to a single new community development project the outstanding principal obligations guaranteed may not exceed \$50 million.

#### *Section 406. Fees and charges*

This section authorizes the Secretary to establish guarantee fees and to make such other charges as he considers reasonable. The Secretary would be required to make a report to Congress on or before January 1, 1970, giving an estimate of the charges and fees which would be required for a self-supporting program.

#### *Section 407. Guarantee fund*

This section authorizes the Secretary to establish a revolving fund to consist of (1) all guarantee fees and other charges, (2) all recoveries and other receipts obtained in connection with guarantees, and (3) such appropriations, which are here authorized, as may be required for program operations and nonadministrative expenses and to make all payments under the guarantees. The full faith and credit of the United States would be pledged to the payment of all guarantees, as well as to the payment of the principal and interest due under any debentures issued toward payment of such guarantees. The Secretary could pursue to final collection or compromise any security, subrogation, or other rights obtained under this act; and expenses incurred in acquiring and disposing of property thus obtained may be paid out of the guarantee fund. The aggregate of outstanding principal obligations guaranteed under the title may at no time exceed \$250 million.

#### *Section 408. Incontestability*

This section makes any guarantee by the Secretary conclusive evidence of the eligibility of the obligations for such guarantee. The validity of any guarantee would be incontestable in the hands of a qualified holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

#### *Section 409. Encouragement of small builders*

This section requires the Secretary to adopt such requirements as he deems necessary to encourage the maintenance of a diversified local homebuilding industry, and the broad participation by builders, particularly small builders, in new community construction.

#### *Section 410. Labor*

This section requires payment of prevailing wage rates (as determined by the Secretary of Labor in accordance with the Davis-Bacon Act) to laborers and mechanics employed in land development assisted under section 403. The Secretary of Housing and Urban Development would be required to obtain adequate assurance, before extending such assistance, that the prevailing wages requirements will be met. It also specifies that the powers given the Secretary of Labor under Reorganization Plan No. 14 to coordinate the enforcement of prevailing wage provisions and the powers given him under the Davis-Bacon Act (40 U.S.C. 276c) to issue regulations will apply.

#### *Section 411. Real property taxation*

This section makes any real property acquired by the Secretary by lien or subrogation rights subject to real property taxation to the same extent, according to its value, as other real property is taxed.

#### *Section 412. Supplementary grants*

This section authorizes the Secretary to make supplementary grants to States and local public bodies carrying out "new community as-

sistant projects" if the Secretary determines that such grants are necessary or desirable for carrying out an approved new community development project and that a substantial number of housing units for low and moderate income persons is to be made available through such development project.

"New community assistance projects" would be projects assisted by grants under the basic water and sewer program and the open-space land program of the Department of Housing and Urban Development and under the water and waste disposal facilities program of the Farmers Home Administration. Supplementary grants would be limited to 20 percent of the cost of such projects and, in determining such cost, the Secretary would accept certifications from the Department of Agriculture as to the cost of the projects assisted by the Farmers Home Administration. In no event could the total Federal grants for a project exceed 80 percent of its cost.

Appropriations not to exceed \$5 million for fiscal year 1969 and \$25 million for fiscal year 1970 are authorized for these supplementary grants.

#### *Section 413. General provisions and rules and regulations*

This section vests in the Secretary (1) the authority to issue rules and regulations and (2) other powers and duties set forth in section 402 of the Housing Act of 1950 (except subsecs. (c) (2), (d), and (f)). Section 402 concerns administrative powers and duties customarily provided for in connection with Federal programs. A corporate-type budget would be required under this section except that the supplementary grants under section 412 would be accounted for separately.

#### *Section 414. Audit by General Accounting Office*

This section authorizes audit by General Accounting Office of the financial transactions of recipients of grants or of developers insofar as they relate to grants or guarantees made pursuant to this title. Representatives of the General Accounting Office shall have access to all those records of recipients of grants or of developers which are necessary to facilitate such audit.

#### *Section 415. Definitions*

This section defines the term "land development," to mean the process of grading land, making, installing, or constructing water lines and water supply installations, sewer lines and sewage disposal installations, steam, gas, and electric lines and installations, roads, sidewalks, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial or other uses, or to provide facilities for public or common use. The term would not include any building unless it is (1) a building which is needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (2) a building, other than a school, which is to be owned and maintained jointly by the residents of the new community or is to be transferred to public ownership after completion.

The term "actual costs" is defined to mean the costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this act, as may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the new community developer and the contractor, there may be included an allowance for the contractor's profit in an amount deemed reasonable by the Secretary.

The term "new community assistance projects" is defined to mean ment Act of 1965, under section 306(a) (2) of the Consolidated Farmers' Home Administration Act, or title VII of the Housing Act of 1961.

#### *Section 416. Conforming amendments*

This section makes the following changes in existing law—

- (1) amends section 202(b) (4) of the Housing Amendments of

1955 so that the population limit (50,000) applicable to the political jurisdiction eligible to receive public facility loans under the 1955 law would be waived in the case of public facilities serving new communities;

(2) amends section 24 of the Federal Reserve Act so as to authorize national banks to invest in obligations guaranteed under title IV; and

(3) amends section 5(c) of the Home Owners Loan Act of 1933 to authorize Federal savings and loan associations to invest in obligations guaranteed under title IV.