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WILLIAM J. CLINTON

42nd President of the United States: 1993 - 2001

Executive Order 12892— Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing

January 17, 1994

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the Fair Housing Act, as amended (42 U.S.C. 3601et seq.) ("Act"), in order to affirmatively further fair housing in all Federal programs and activities relating to housing and urban development throughout the United States, it is hereby ordered as follows:

Section 1. Administration of Programs and Activities Relating to Housing and Urban Development.

1-101. Section 808(d) of the Act, as amended, provides that all executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of the Act and shall cooperate with the Secretary of Housing and Urban Development to further such purposes.

1-102. As used in this order, the phrase "programs and activities" shall include programs and activities operated, administered, or undertaken by the Federal Government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions).

Sec. 2. Responsibilities of Executive Agencies.

2-201. The primary authority and responsibility for administering the programs and activities relating to housing and urban development affirmatively to further fair housing is vested in the Secretary of Housing and Urban Development.

2-202. The head of each executive agency is responsible for ensuring that its programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing as required by section 808 of the Act and for cooperating with the Secretary of Housing and Urban Development, who shall be responsible for exercising leadership in furthering the purposes of the Act.

2-203. In carrying out the responsibilities in this order, the head of each executive agency shall take appropriate steps to require that all persons or other entities who are applicants for, or participants in, or who are supervised or regulated under, agency programs and activities relating to housing and urban development shall comply with this order.

2-204. Upon receipt of a complaint alleging facts that may constitute a violation of the Act or upon receipt of information from a consumer compliance examination or other information suggesting a violation of the Act, each executive agency shall forward such facts or information to the Secretary of Housing and Urban Development for processing under the Act. Where such facts or information indicate a possible pattern or practice of discrimination in violation of the Act, they also shall be forwarded to the Attorney General. The authority of the Federal depository institution regulatory agencies to take appropriate action under their statutory authority remains unaffected.

Sec. 3. President's Fair Housing Council.

3-301. There is hereby established an advisory council entitled the "President's Fair Housing Council" ("Council"). The Council shall be chaired by the Secretary of Housing and Urban Development and shall consist of the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chair of the Federal Deposit Insurance Corporation, and such other officials of executive departments and agencies as the President may, from time to time, designate.

3-302. The President's Fair Housing Council shall review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing. The Council shall propose revisions to existing programs or activities, develop pilot programs and activities, and propose new programs and activities to achieve its goals.

3-303. In support of cooperative efforts among all executive agencies, the Secretary of Housing and Urban Development shall:

(a) cooperate with, and render assistance to, the heads of all executive agencies in the formulation of policies and procedures to implement this order and to provide information and guidance on the affirmative administration of programs and activities relating to housing and urban development and the protection of the rights accorded by the Act; and

(b) develop memoranda of understanding and any necessary implementing procedures among executive agencies designed to provide for consultation and the coordination of Federal efforts to further fair housing through the affirmative administration of programs and activities relating to housing and urban development, including coordination of the investigation of complaints or other information referred to the Secretary as required by section 2-204 of this order that would constitute a violation of the Act or, where relevant, other Federal laws. Existing memoranda of understanding shall remain in effect until superseded.

3-304. In connection with carrying out functions under this order, the Secretary of Housing and Urban Development is authorized to request from any executive agency such information and assistance as the Secretary deems necessary. Each agency shall furnish such information to the extent permitted by law and, to the extent practicable, provide assistance to the Secretary.

Sec. 4. Specific Responsibilities.

4-401. In implementing the responsibilities under sections 2-201, 2-202, 2-203, and section 3 of this order, the Secretary of Housing and Urban Development shall, to the extent permitted by law:

(a) promulgate regulations in consultation with the Department of Justice and Federal banking agencies regarding programs and activities of executive agencies related to housing and urban development that shall:

(1) describe the functions, organization, and operations of the President's Fair Housing Council;

(2) describe the types of programs and activities defined in section 1-102 of this order that are subject to the order;

(3) describe the responsibilities and obligations of executive agencies in ensuring that programs and activities are administered and executed in a manner that furthers fair housing;

(4) describe the responsibilities and obligations of applicants, participants, and other persons and entities involved in housing and urban development programs and activities affirmatively to further the goal of fair housing; and

(5) describe a method to identify impediments in programs or activities that restrict fair housing choice and implement incentives that will maximize the achievement of practices that affirmatively further fair housing.

(b) coordinate executive agency implementation of the requirements of this order and issue standards and procedures regarding:

(1) the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing; and

(2) the cooperation of executive agencies in furtherance of the Secretary of Housing and Urban Development's authority and responsibility under the Act.

4-402. Within 180 days of the publication of final regulations by the Secretary of Housing and Urban Development under section 4-401 of this order, the head of each executive agency shall publish proposed regulations providing for the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing, consistent with the Secretary of Housing and Urban Development's regulations, and with the standards and procedures issued pursuant to section 4-401(b) of this order. As soon as practicable thereafter, each executive agency shall issue its final regulations. All executive agencies shall formally submit all such proposed and final regulations, and any related issuances or standards, to the Secretary of Housing and Urban Development at least 30 days prior to public announcement.

4-403. The Secretary of Housing and Urban Development shall review proposed regulations and standards prepared pursuant to section 4-402 of this order to ensure conformity with the purposes of the Act and consistency among the operations of the various executive agencies and shall provide comments to executive agencies with respect thereto on a timely basis.

4-404. In addition to promulgating the regulations described in section 4-401 of this order, the Secretary of Housing and Urban Development shall promulgate regulations describing the nature and scope of coverage and the conduct prohibited, including mortgage lending discrimination and property insurance discrimination.

Sec. 5. Administrative Enforcement.

5-501. The head of each executive agency shall be responsible for enforcement of this order and, unless prohibited by law, shall cooperate and provide records, data, and documentation in connection with any other agency's investigation of compliance with provisions of this order.

5-502. If any executive agency concludes that any person or entity (including any State or local public agency) applying for or participating in, or supervised or regulated under, a program or activity relating to housing and urban development has not complied with this order or any applicable rule, regulation, or procedure issued or adopted pursuant to this order, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation, and persuasion. An executive agency need not pursue informal resolution of matters where similar efforts made by another executive agency have been unsuccessful, except where otherwise required by law. In the event of failure of such informal means, the executive agency, in conformity with rules, regulations, procedures, or policies issued or adopted by it pursuant to section 4 of this order hereof, shall impose such sanctions as may be authorized by law. To the extent authorized by law, such sanctions may include:

(a) cancellation or termination of agreements or contracts with such person, entity, or any State or local public agency;

(b) refusal to extend any further aid under any program or activity administered by it and affected by this order until it is satisfied that the affected person, entity, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order;

(c) refusal to grant supervisory or regulatory approval to such person, entity, or State or local public agency under any program or activity administered by it that is affected by this order or revoke such approval if previously given; and

(d) any other action as may be appropriate under law.

5-503. Findings of any violation under section 5-502 of this order shall be promptly reported by the head of each executive agency to the Secretary of Housing and Urban Development and the Attorney General. The Secretary of Housing and Urban Development shall forward this information to all other executive agencies.

5-504. Any executive agency shall also consider invoking appropriate sanctions against any person or entity where any other executive department or agency has initiated action against that person or entity pursuant to section 5-502 of this order, where the Secretary of Housing and Urban Development has issued a charge against such person or entity that has not been resolved, or where the Attorney General has filed a civil action in Federal Court against such person or entity.

5-505. Each executive agency shall consult with the Secretary of Housing and Urban Development, and the Attorney General where a civil action in Federal Court has been filed, regarding agency actions to invoke sanctions under the Act. The Department of Housing and Urban Development, the Department of Justice, and Federal banking agencies shall develop and coordinate appropriate policies and procedures for taking action under their respective authorities. Each decision to invoke sanctions and the reasons therefor shall be documented and shall be provided to the Secretary of Housing and Urban Development and, where appropriate, to the Attorney General in a timely manner.

Sec. 6. General Provisions.

6-601. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order No. 12250.

6-602. All provisions of regulations, guidelines, and procedures proposed to be issued by executive agencies pursuant to this order that implement nondiscrimination requirements of laws covered by Executive Order No. 12250 shall be submitted to the Attorney General for review in accordance with that Executive order. In addition, the Secretary shall consult with the Attorney General regarding all regulations and procedures proposed to be issued under sections 4-401 and 4-402 of this order to assure consistency with coordinated Federal efforts to enforce nondiscrimination requirements in programs of Federal financial assistance pursuant to Executive Order No. 12250.

6-603. Nothing in this order shall affect the authority and responsibility of the Attorney General to commence any civil action authorized by the Act.

6-604. (a) Part IV and sections 501 and 503 of Executive Order No. 11063 are revoked. The activities and functions of the President's Committee on Equal Opportunity in Housing described in that Executive order shall be performed by the Secretary of Housing and Urban Development.

(b) Sections 101 and 502(a) of Executive Order No. 11063 are revised to apply to discrimination because of "race, color, religion (creed), sex, disability, familial status or national origin." All executive agencies shall revise regulations, guidelines, and procedures issued pursuant to Part II of Executive Order No. 11063 to reflect this amendment to coverage.

(c) Section 102 of Executive Order No. 11063 is revised by deleting the term "Housing and Home Finance Agency" and inserting in lieu thereof the term "Department of Housing and Urban Development."

6-605. Nothing in this order shall affect any requirement imposed under the Equal Credit Opportunity Act (15 U.S.C. 1691et seq.), the Home Mortgage Disclosure Act (12 U.S.C. 2801et seq.) or the Community Reinvestment Act (12 U.S.C. 2901et seq.).

6-606. Nothing in this order shall limit the authority of the Federal banking agencies to carry out their responsibilities under current law or regulations.

6-607. Executive Order No. 12259 is hereby revoked.

Sec. 7. Report.

7-701. The Secretary of Housing and Urban Development shall submit to the President an annual report commenting on the progress that the Department of Housing and Urban Development and other executive agencies have made in carrying out requirements and responsibilities under this Executive order. The annual report may be consolidated with the annual report on the state of fair housing required by section 808(e)(2) of the Act.

William J. Clinton

The White House,

January 17, 1994.

[Filed with the Office of the Federal Register, 4:38 p.m., January 18, 1994]

William J. Clinton, Executive Order 12892—Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/219920>

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