

§ 221.795

24 CFR Ch. II (4-1-03 Edition)

§ 221.795 Displacement—below market interest rate mortgages.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, Owners shall assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, non-profit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily to permit rehabilitation or other work for the project. Such tenants must be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing, any increase in monthly rent/utility costs and any incidental expenses.

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the rehabilitation; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* A “displaced person” (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24. A “displaced person” shall be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601-19), and, if the representative comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided

to a minority person is located in an area of minority concentration, such person also shall be given, if possible, referrals to comparable and suitable, decent, safe and sanitary replacement dwellings not located in such areas.

(d) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(e) *Appeals.* A person who disagrees with the Owner’s determination concerning whether the person qualifies as a “displaced person,” or with the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the Owner. A person who is dissatisfied with the Owner’s determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(f) *Responsibility of Owner.* (1) The Owner shall certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that the Owner will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The Owner shall ensure such compliance notwithstanding any third party’s contractual obligation to the Owner to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid with funds available from other sources.

(3) The Owner shall maintain records in sufficient detail to demonstrate compliance with these provisions. The Owner shall maintain data on the race, ethnic, gender, and disability status of displaced persons.

(g) *Definition of displaced person.* (1) For purposes of this section, the term *displaced person* means a person (household, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. The term “displaced person” includes, but may not be limited to:

(i) A tenant-occupant of a dwelling unit who moves from the building/complex, permanently, after the Owner executes the agreement covering the rehabilitation, demolition or acquisition, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the amount approved by HUD;

(ii) A tenant-occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or

(B) Other conditions of the temporary relocation are not reasonable; or

(iii) A tenant-occupant of a dwelling who moves from the building/complex, permanently, after he or she has been required to move to another dwelling unit in the same building/complex in order to carry out the project, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable; or

(iv) Any person, including a person who moves before the Owner's execution of the agreement covering the rehabilitation, demolition, or acquisition, if the Owner or HUD determines that the displacement resulted directly from rehabilitation, demolition or acquisition for the assisted project.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the execution of the agreement covering the rehabilitation, demolition or acquisition and, before signing a lease and commencing occupancy, received written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that he or she would not qualify as a "displaced person" (or for any assistance provided under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The Owner may ask HUD, at any time, to determine whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term *initiation of negotiations* means the Owner's execution of the agreement covering the rehabilitation, demolition, or acquisition.

(Approved by Office of Management and Budget under OMB Control Number 2506-0121)

[59 FR 29330, June 6, 1994]

Subpart E—Servicing Responsibilities—Low Cost Homes

§ 221.800 Cross-reference.

All of the provisions of subpart C, part 203 of the chapter concerning the responsibilities of servicers of mortgages insured under section 203 of the