

## § 248.175

project shall be maintained in accordance with the housing standards set forth in § 248.147.

(2) The Commissioner shall inspect the project at least annually in order to determine compliance with paragraph (p)(1) of this section.

(q) *Audits.* Each resident council shall be subject to the audit requirements in part 45 of this title and shall submit an annual audit to the Commissioner in such form as the Commissioner may prescribe. The resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under subpart B of this part, including any proceeds from sales under paragraphs (h) and (l) of this section, the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

The Commissioner or his or her duly authorized representative shall have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under subpart B of this part. The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access, for the purpose of audit and examination, to any books, documents, papers, and records of the resident council that are pertinent to assistance received under subpart B of this part.

(r) *Reports.* The resident council shall submit reports, as required by the Commissioner, in order to demonstrate continued compliance with the requirements of this section.

(s) *Assumption of the federally assisted mortgage(s).* In connection with a resident homeownership plan, the resident council may assume a mortgage insured, held or assisted by the Commissioner under part 236 of this chapter or under part 221 of this chapter and bearing a below market interest rate as provided under § 221.518(b) of this chapter or may choose to pay off the mort-

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gage. If the resident council decides to assume the mortgage, the project must be sold pursuant to § 248.175 and the project must be operated as a limited equity cooperative.

[57 FR 12041, Apr. 8, 1992, as amended at 58 FR 37816, July 13, 1993; 64 FR 26639, May 14, 1999]

### § 248.175 Resident homeownership program—limited equity cooperative.

(a) Tenants may carry out a resident homeownership program through the purchase of eligible low income housing by a limited equity cooperative and the operation of the project as a limited equity cooperative.

(b) The purchase of a project by a limited equity cooperative and the operation of the project by the limited equity cooperative shall be carried out in accordance with the provisions of § 248.173 (a), (b), (c), (d), (except that paragraph (d)(1)(i) of this section shall include a statement of the amount and type of incentives requested, rather than only the amount of grant funds requested), (e), (g)(3), (i) (except paragraphs (i)(1) and (3)), (m) and (n).

(c) The purchase and operation of eligible low income housing by a limited equity cooperative under this section shall be carried out in accordance with all provisions of subpart B of this part otherwise, applicable to the transfer and operation of a project with continued low income affordability restrictions, except as provided in this section.

[57 FR 12041, Apr. 8, 1992, as amended at 58 FR 37816, July 13, 1993]

### § 248.177 Delegated responsibility to State agencies.

(a) *In general.* The Commissioner shall delegate some or all responsibility for implementing subpart B of this part to a State housing agency if such agency submits a preservation plan acceptable to the Commissioner.

(b) *Approval.* State preservation plans shall be submitted in such a form and in accordance with such procedures as the Commissioner shall establish. The Commissioner may approve plans that contain:

(1) An inventory of low income housing located within the State that is or

will be eligible low income housing under subpart B of this part within five years;

(2) A description of the agency's experience in the area of multifamily financing and restructuring;

(3) A description of the administrative resources that the agency will commit to the processing of plans of action in accordance with subpart B of this part;

(4) A description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with subpart B of this part;

(5) An independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

(6) A certification by the public official responsible for submitting the consolidated plan under 24 CFR part 91 that the proposed activities are consistent with the approved consolidated plan of the State within which the eligible low income housing is located; and

(7) Such other certifications or information that the Commissioner determines to be necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of subpart B of this part.

(c) *Implementation agreements.* The Commissioner may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of subpart B of this part.

(d) *Fees.* Any State agency with responsibility so delegated under subpart B of this part may not charge any owner of eligible low income housing any fee for accepting notices of intent, processing plans of action or any other process pursuant to approval of a plan of action under subpart B of this part. This prohibition shall not preclude:

(1) An owner paying for its appraisal or share of a joint appraisal under the provisions of § 248.111; or

(2) A State agency from collecting fees normally associated with pro-

viding and processing financing insured under part 241 of this chapter.

[57 FR 12041, Apr. 8, 1994, as amended at 60 FR 16379, Mar. 30, 1995]

**§ 248.179 Consultation with other interested parties.**

The Commissioner shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of subpart B of this part and shall give consideration to the views of any such agency when making determinations under subpart B of this part. The Commissioner shall also confer with appropriate interested parties that the Commissioner believes could assist in the development of a plan of action that best achieves the purposes of subpart B of this part.

**§ 248.181 Notice to tenants.**

Except as provided in §§ 248.105 and 248.133, with respect to the first and second notices of intent, with regard to all provisions of subpart B of this part which mandate that information or material be given to the tenants, by the Commissioner, the owner, or a qualified purchaser, or other party, this requirement shall be satisfied where the notifying entity:

(a) Posts a copy of the information or material in readily accessible locations within each affected building, or posts notices in each location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined and copied during reasonable hours; and

(b) Supplies a copy of the information or material to a tenant representative, if any.

**§ 248.183 Preemption of State and local laws.**

(a) *In general.* No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that:

(1) Restricts or inhibits the prepayment of any mortgage described in § 248.101 or the voluntary termination of any insurance contract pursuant to § 207.253 of this chapter on eligible low income housing projects;