

§ 280.45

24 CFR Ch. II (4-1-04 Edition)

which the program is located, and supporting documentation demonstrating to HUD that such action is necessary to achieve or maintain neighborhood stability. If a modification is granted, HUD may permit up to 15 percent of the families that purchase homes under this part, to have a family income on the date of purchase that is between 100 and 115 percent of the median family income for the metropolitan statistical area.

(B) The national median income.

(ii) For programs that are not located in a metropolitan statistical area, the family income may not exceed the national median income.

(2) For the purpose of determining the median family income for the nation and metropolitan statistical areas, the recipient must use the most recent median family incomes developed by HUD under Section 8 of the United States Housing Act of 1937. Family income is the annual income as computed in accordance with 24 CFR 813.106.

(b) *Homeownership.* No member of a family purchasing a home constructed or substantially rehabilitated under the program may have owned a home at any time during the three years before the date of purchase.

[54 FR 22258, May 22, 1989. Redesignated at 61 FR 42953, Aug. 19, 1996]

§ 280.45 Sales contract and downpayment requirements.

(a) *Sales contract.* The recipient and each family purchasing a home constructed or substantially rehabilitated under the program must execute a sales contract. The sales contract shall contain appropriate terms and conditions covering the purchase of the home and must contain:

(1) The downpayment provisions described in paragraph (b) of this section;

(2) The repayment provisions described in § 280.55 of this part.

(3) Such other terms and conditions as HUD may require.

(b) *Downpayment.* Each family purchasing a home constructed or substantially rehabilitated under the program must provide a downpayment. A governmental entity or instrumentality may not provide funds for the family's downpayment.

(1) *Amount.* The amount of the downpayment includes all cash contributions made by the family (e.g., contributions for settlement and closing costs). The total amount of the downpayment must be equal to 10 percent of the sales price of the home except:

(i) The recipient may require a downpayment that is greater than 10 percent of the sales price of the home, if the recipient has determined that a higher downpayment is appropriate.

(ii) The recipient may require a downpayment that is less than 10 percent of the sales price of the home, if the first mortgage on the home is to be held by a State or a unit of general local government under a home loan program provided by the State or unit of general local government, and the program provides for a lower downpayment.

(2) *Date of downpayment.* The downpayment must be made on the date required by the recipient. Under § 280.35, however, no construction or rehabilitation may be begun until at least 25 percent of the homes constructed or substantially rehabilitated under the program are contracted for sale to purchasers who intend to live in the homes and the downpayments are made.

(3) *Interest.* The recipient shall deposit the downpayment in an account with a federally insured bank, savings and loan institution or credit union. The recipient shall pay interest on the downpayment to the family from the date that downpayment is made through the date of settlement, at the actual rate of interest earned on the account. Under no circumstances may the interest rate paid to the family be lower than the lowest passbook rate of interest paid by a federally insured bank, savings and loan institution or credit union conducting business within the State in which the program is located.

[54 FR 22258, May 22, 1989. Redesignated and amended at 61 FR 42953, Aug. 19, 1996]

§ 280.50 Loan requirements.

(a) *Loan requirements.* A loan made to a family purchasing a home constructed or substantially rehabilitated under the program:

(1) Must be secured by a second mortgage held by HUD on the property involved;

(2) May not exceed \$15,000;

(3) May not bear interest;

(4) Is repayable to HUD upon the sale, lease, or other transfer of the property; except, as an alternative, the nonprofit organization may elect to provide the Homeowner Incentive under § 280.55(c) for subsequent sale or transfer of the property (the Homeowner Incentive is not available upon the lease of the property).

(5) Must be applied by the family to the purchase price of the home.

(6) May not be used by the family to provide the downpayment required under § 280.45.

(7) Is subject to such other terms and conditions as HUD may require.

(b) *Reimbursement of recipient.* Within 30 days after the date of purchase of a home with a loan under this part, HUD will provide the recipient with an amount equal to the amount of the loan.

[54 FR 22258, May 22, 1989, as amended at 58 FR 58282, Nov. 1, 1993. Redesignated and amended at 61 FR 42953, 42954, Aug. 19, 1996]

§ 280.55 Loan and profit.

(a) *Repayment.* A family purchasing a home with a loan under this part must repay the loan to HUD, if the family sells, leases, or transfers any interest in the property. If the family refinances the first mortgage and the refinancing is unrelated to a sale, equity withdrawal, lease or transfer of an interest in the property, the family will not be required to repay the loan. If the refinancing of the first mortgage involves an equity withdrawal, the family will be required to repay the loan to HUD to the extent of the withdrawal. To the extent that repayment is not required as a result of refinancing, the second mortgage held by HUD on the property will remain in force until the loan is repaid in full.

(b) *HUD-approval.* (1) The family may request HUD approval of a sale, equity withdrawal or other transfer of the property without full repayment. Approval will be granted if HUD determines that an undue hardship will result from the application of the repayment requirement. Generally, HUD will

make this finding only if the proceeds of the transaction are insufficient to repay the loan amount in full and approval will be granted only to the extent that the proceeds of the transaction are insufficient to repay the loan in full. HUD will not approve the lease of a home without repayment.

(2) To the extent that HUD approves a sale or transfer without repayment, the second mortgage held by HUD on the property will remain in force until the loan is repaid in full.

(c) *Homeowner incentive.* The nonprofit organization may elect to provide a homeowner incentive to families purchasing a home with a loan under this part. For each home sold under this program for which the nonprofit organization elects to provide the Homeowner Incentive, the nonprofit organization must provide a Notice of Homeowner Incentive which must be acknowledged by signature of the homebuyer(s) and the grantee. The Notice of Homeowner Incentive is to read as follows: "The homeowner incentive will provide that upon the sale or transfer of a property purchased with a loan made under this section, any proceeds remaining after repaying the first mortgage shall be distributed in the following order:

(1) Downpayment—The amount of the downpayment made by the family who purchased a home constructed or rehabilitated under this section, which was paid in the form of cash or the value of sweat equity by the family at the time of the initial purchase, shall be repaid to the family upon the sale or transfer of the property. Downpayment funds not provided by the family at the time of the initial purchase (*i.e.*, obtained from another source) will not be repaid to the family.

(2) Loan and profit—Any amounts remaining after distribution of the downpayment shall be shared equally between the Secretary and the family, but only to the extent that the Secretary recovers an amount equal to the amount of the loan originally made to the family under this section. If such remaining amounts are insufficient for the Secretary to recover the full amount of the loan made under this section, the remaining balance of the second mortgage shall be cancelled and