

§ 248.1

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Subpart E—Technical Assistance and Capacity Building

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AUTHORITY: 12 U.S.C. 17151 note, 4101 note, and 4101-4124; 42 U.S.C. 3535(d).

Subpart A—General

SOURCE: 57 FR 12041, Apr. 8, 1992, unless otherwise noted.

§ 248.1 Purpose.

The purpose of this part is to—

- (a) Preserve and retain to the maximum extent practicable as housing affordable to low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance, without unduly restricting the owners' prepayment rights;
- (b) Minimize the involuntary displacement of tenants currently residing in such housing;
- (c) Work in partnership with State and local government and the private sector in the provision and operation of housing that is affordable to very low, low and moderate income families; and
- (d) Facilitate the sale of housing to residents under a resident homeownership program.

§ 248.3 Applicability.

The requirements of subparts B and C of this part apply to any project that is eligible low income housing, as defined in subparts B and C of this part respectively, on or after November 1, 1987, except that such requirements shall not apply to a project which receives assistance under title IV, subtitle B of the Cranston-Gonzalez National Affordable Housing Act in connection with a homeownership program approved by the Commissioner thereunder.

§ 248.5 Election to proceed under subpart B or subpart C of this part.

- (a) Any owner who has not submitted a notice of intent prior to January 1, 1991, pursuant to either § 248.211 or

§ 248.105, shall proceed under subpart B of this part.

(b) Any owner who has filed a plan of action with the Commissioner on or before October 11, 1990 pursuant to subpart C of this part, regardless of whether or not the Commissioner has approved such plan of action or whether the owner has received incentives thereunder, may proceed under subpart B of this part by submitting a notice of intent to the Commissioner in accordance with § 248.105 within 30 days after publication of revised Appraisal Guidelines or within thirty days after the Commissioner notifies the owner of HUD's final approval of the plan of action, whichever is later. The notice of intent shall state that the owner is exercising its conversion right pursuant to this section. If the owner fails to file a notice of intent within that period, the owner forfeits its right of conversion. In awarding incentives to an owner who elects to proceed under subpart B of this part in accordance with this section, the Commissioner shall take into consideration any incentives which the owner has already received under subpart C of this part.

(c) Any owner of housing that becomes eligible low income housing, as defined in subpart B of this part, before January 1, 1991, and who before such date, filed a notice of intent under § 248.211 of subpart C of this part, may, unless a plan of action was submitted after October 11, 1990, elect to proceed under subpart B or under subpart C of this part. An owner must indicate its election by submitting to the Commissioner, within 30 days of the effective date of this part, a notice of election to proceed indicating whether it wishes to proceed under subpart B or subpart C of this part, or proceed under subpart B of this part until completion of the appraisals and then elect either subpart B or subpart C of this part. An owner who chooses to retain its option until after the completion of the appraisals under § 248.111 must submit a new notice of intent to the Commissioner within 30 days after receipt of the information provided by the Commissioner under § 248.131. The notice of intent shall be submitted in accordance with either § 248.105 (for owners electing to proceed under subpart B of this part) or § 248.211

(for owners electing to proceed under subpart C of this part). Any owner who fails to file a notice of intent within the 30-day period may not proceed under subpart C of this part, but may proceed under subpart B of this part by filing a new notice of intent thereafter. If an owner who has filed a notice of intent before January 1, 1991 elects under this paragraph to proceed under subpart C of this part, it may change its election within 30 days after receipt of the information provided by the Commissioner under § 248.131 by filing a new notice of intent under § 248.211. For purposes of calculating any time periods or deadlines under this part for actions following the filing of the notice of intent, the date on which the owner submits the new notice of intent under this paragraph shall be deemed the date of the filing of the notice of intent. Any owner who, exercising its option under paragraph (c) of this section, submits a notice of intent under § 248.211 after the Commissioner has incurred the cost of having an appraisal, or appraisals, performed pursuant to § 248.111 of subpart A of this part, shall reimburse the Commissioner for these expenses within 30 days of receipt of a bill covering these expenses.

(d) For an owner who has elected under paragraph (c) of this section to proceed under subpart C of this part, the Commissioner shall provide sufficient assistance to enable a nonprofit organization that has purchased, or will purchase, eligible low income housing to meet project oversight costs, as that term is defined in § 248.201.

(e) The Commissioner shall not refuse to offer incentives under § 248.231 to any owner who filed a notice of intent under § 248.211 before October 15, 1991, based solely on the date of filing of the plan action.

(f) An owner who has filed a plan of action after October 11, 1990, pursuant to § 248.213, may not elect to proceed under subpart B of this part.

[57 FR 12041, Apr. 8, 1992, as amended at 58 FR 37814, July 13, 1993]

Subpart B—Prepayments and Plans of Action Under the Low Income Housing Preservation and Resident Homeownership Act of 1990

SOURCE: 57 FR 12041, Apr. 8, 1992, unless otherwise noted.

§ 248.101 Definitions.

Acquisition Loan. A loan or advance of credit made to a qualified purchaser of eligible low income housing and insured by the Commissioner under part 241, subpart E of this chapter.

Adjusted Income. Annual income, as specified in part 5 of this title, less allowances specified in the definition of “Adjusted Income” in part 5 of this title.

Aggregate Preservation Rent. The extension preservation rent or transfer preservation rent, as defined under this section.

Annual Authorized Return. That amount an owner of an eligible low income housing project may receive in distributions from the project each year, plus debt service payments payable each year attributable to the equity take-out portion of any loan approved under the plan of action, expressed as a percentage of the project’s extension preservation equity.

Bona Fide Offer. A certain and unambiguous offer to purchase an eligible low income housing project pursuant to subpart B of this part made in good faith by a qualified purchaser with the intent that such offer result in the execution of an enforceable, valid and binding contract. A bona fide offer shall include, for purposes of subpart B of this part, a contract of sale and an earnest money deposit, as set forth in § 248.157(g). For mandatory sales under § 248.161, the offer must include a contract of sale, an earnest money deposit and also be for a purchase price which equals the transfer preservation value.

Capital Improvement Loan. A direct loan originated by the Commissioner under part 219, subpart C of this chapter.

Community-Based Nonprofit Organization. A private nonprofit organization that—