

(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

§ 280.60

24 CFR Ch. II (4-1-08 Edition)

shall not be transferred to a subsequent purchaser.

(3) Profit—Any amounts remaining after distribution under paragraphs (c)(1) and (c)(2) of this section shall be paid to the family. Funds paid to the family under paragraphs (c)(1), (2) and (3) of this section may be used by the family to repay any other remaining debt on the property (*i.e.*, third or subsequent mortgages).

(4) One copy of the acknowledged Notice of Homeowner Incentive is to be provided to HUD for any home sold with a loan under this part where a sales contract has been executed and/or the sale has closed prior to the issuance of these regulations. For sales where the HUD-approved sales contract has not yet been executed with a prospective purchaser and/or the sale has not yet closed, a copy of the Notice of Homebuyer Incentive must be executed by the homebuyer and the grantee and appended to the HUD-approved sales contract, HUD Second Mortgage or Deed of Trust, and the HUD Note.

(d) *Notice of Election.* In order for a nonprofit organization to make the Homeowner Incentive available to families purchasing a home with a Nehemiah loan, the nonprofit organization must provide HUD with a written Notice of Election of Homeowner Incentive. This Notice must:

(1) State whether or not the Homeowner Incentive will be made available to all homebuyers in the project who have purchased a home under the project with a loan made under this part after July 1, 1990; or

(2) In cases where the Homeowner Incentive will not be made available to

all homebuyers who have purchased a home under the project with a loan made under this part after July 1, 1990 specifically identify those homebuyers to which the Homeowner Incentive will not apply.

(Approved by the Office of Management and Budget under control number 2502-0385)

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§ 280.60 Funding amendments and deobligation of funds.

(a) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated.

(b) *Deobligation.* (1) HUD may deobligate amounts:

(i) If the amount of the loans provided under the program are less than the amount of the loans anticipated in the application; or

(ii) If the recipient fails to carry out activities under the program within a reasonable time after selection;

(2) If as a result of an audit, HUD determines that the recipient has expended funds for uses that are ineligible under this part, HUD may adjust or deobligate funding amounts, as appropriate, to recover the ineligible costs.

(3) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed.

[54 FR 22258, May 22, 1989. Redesignated at 61 FR 42954, Aug. 19, 1996]

SUBCHAPTERS F-H [RESERVED]