

CHAPTER 7 - COMMUNITY PARTICIPATION

- 7-1. GENERAL. In an effort to provide both homeownership opportunities to families and much needed redevelopment to cities and towns, a number of communities and non-profit organizations are searching for means to assist first-time homebuyers to purchase their own home. Since many first-time homebuyers can manage the monthly mortgage payments but have not been able to save enough money to cover their downpayment, the assistance typically takes the form of providing all or part of the purchaser's required investment (downpayment) in the property.

The Department's policy is not to insure mortgages that restrict the homeowners ability to freely transfer his or her property (see HUD Handbook 4330.1, Chapter 36, paragraph 91). However, deed restrictions that relate to the assistance granted are permitted if they will be permanently void if title is acquired by a mortgagee, HUD or another party upon foreclosure, or by deed-in-lieu of foreclosure, or if the mortgage is assigned to HUD. This policy is only applicable where a State or local government agency, or non-profit organization operates a program to assist low, moderate and/or middle income families to acquire home ownership.

Under 24 CFR 203.650, a mortgagor becomes eligible for consideration for the Department's assignment program when HUD receives a notice from the lender that the mortgage is 90 days or more delinquent and the lender is capable of foreclosing on the loan. If an agency enters into a conditional title agreement with their purchasers and faithfully discharges its agreement to make the mortgage payments once the mortgage loan has reached a 60 day default status, the assignment of the mortgage will never become an issue. However, if for any reason the mortgage reaches a 90 day default status, the law regarding the mortgagor's right to request assignment of the mortgage to HUD becomes applicable.

In order for HUD to insure a first mortgage where the second mortgage contains resale restrictions or resale restrictions are otherwise placed on the property, the second mortgage and/or documents that contain the resale

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restrictions must provide that the restrictions must terminate and have no further force or effect upon title being acquired by a mortgagee or HUD or another party upon foreclosure; upon title being acquired by a mortgagee or HUD by a deed-in-lieu of foreclosure; or upon assignment of the mortgage to HUD.

- 7-2. LOCAL PROGRAMS. One of the avenues to accomplish providing all or a portion of the downpayment has been the issuance of tax-exempt bonds

by the state or local government agency or the use of Community Development Block Grant (CDBG) funds to rehabilitate housing units and writedown the acquisition costs. Sometimes units can also be leased under a lease/purchase program by the local government. Some or all of the rent monies collected by the local government are then earmarked for a future downpayment when the tenant exercises the right to purchase the unit. In other programs, these monies are used to rehabilitate properties in need of repair and subsequently sold to homebuyers without the lease portion of the program.

The Department will permit a state, local government agency or instrumentality (which is a seller of a property) or a non-profit organization to provide a gift of funds (typically in the form of a credit or a grant) to the purchaser who is seeking an insured mortgage. (Transactions in which a builder or other party funds the downpayment through the local community in order to sell a house are not permitted.) The key ingredients in any such program are the involvement of a governmental agency or non-profit organization and the methods used to generate the funds they provide to the purchaser(s). The agency's involvement can take the form of direct participation or written confirmation from the agency establishing a formal link to a non-profit entity that will operate as an instrumentality of that agency.

A governmental agency can be approved as a Direct Endorsement Lender on the same basis as an FHA approved lender. Their staff may perform the appraisal, plan review and inspection functions provided they are qualified and are properly trained by the field office for the 203(k) program.

Also, an agency can obtain a conditional commitment or statement of appraised value in its own name by completing the construction exhibits and cost

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estimates. A borrower can be qualified to make the purchase of the home at closing and a contractor can be scheduled to do the work.

When a state or local government agency, or non-profit organization purchase a property, rehabilitates the property with a 203(k) insured mortgage and remains as the mortgagor, the Department will allow high loan-to-value financing (97/95 percent), the same as an owner-occupant. At a later date, the agency can sell the property to a mortgagor acceptable to HUD (who intends to occupy the property as a principal residence) by using the assumption process described in HUD Handbook 4155.1.

These frequently used methods do not preclude localities from creatively developing their own techniques for reducing the costs of homeownership for lower income families. Such techniques might include forming a consortium of private lenders interested in meeting

their community reinvestment responsibilities. They may be able to pool their risk or secure the needed capital from a community-based foundation to establish a revolving loan fund.

Appendix 14 has an example of legal documents for a program using Conditional Title Agreements. Publication of these sample documents is not an endorsement of the contents, within the agreements, by the U.S. Department of Housing and Urban Development. The contents within Appendix 14 may not include all information necessary to implement a Section 203(k) program, given changing facts in every negotiation and agreement process.