

County Council Of Howard County, Maryland

2009 Legislative Session

Legislative Day No. 11

Resolution No. 80 -2009

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION amending the rules that implement the Settlement Downpayment Loan Program established under Title 13, Subtitle 9 of the Howard County Code, the Homeownership Assistance Program; defining certain terms; amending certain definitions; providing for different types of loans; setting forth eligibility criteria and loan amounts; clarifying the use of loans; clarifying certain application procedures; making certain technical corrections; and generally relating to the Settlement Downpayment Loan Program.

Introduced and read first time _____, 2009.

By order _____
Stephen LeGendre, Administrator

Read for a second time at a public hearing on _____, 2009.

By order _____
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted____, Adopted with amendments____, Failed____, Withdrawn____, by the County Council
on _____, 2009.

Certified By _____
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, pursuant to Title 13, Subtitle 9 of the Howard County Code, the
2 Department of Housing and Community Development administers the Homeownership
3 Assistance Program (the “Program”); and
4

5 **WHEREAS**, the purpose of the Program is to provide financial assistance to qualified
6 homebuyers who cannot otherwise finance the purchase of a home, to provide financial
7 assistance to nonprofit organizations who agree to purchase and make modifications to
8 residential properties for resale to qualified homebuyers and to increase the supply of adequate
9 affordable housing in Howard County; and
10

11 **WHEREAS**, the Program provides that the County Council will approve by resolution
12 any rules, amendments to rules, policies and procedures adopted to implement the Program; and
13

14 **WHEREAS**, by passage of Council Resolution No. 46-1992, the County Council
15 initially approved rules for the Settlement Downpayment Loan Program, established pursuant to
16 the Program; and
17

18 **WHEREAS**, the Settlement Downpayment Loan Program rules were subsequently
19 amended by the passage of Council Resolution No. 38-1996, Council Resolution No. 102-1998
20 and Council Resolution No. 152-1999; and
21

22 **WHEREAS**, since adoption of Council Resolution No. 152-1999, there have been
23 significant changes and the Settlement Downpayment Loan Program rules are in need of
24 substantial revision; and
25

26 **WHEREAS**, the Department of Housing and Community Development has proposed
27 amendments to the Settlement Downpayment Loan Program rules as shown in the attached
28 Exhibit A; and
29

30 **WHEREAS**, the County Executive has reviewed and approved the proposed changes.
31

1 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,
2 Maryland this _____ day of _____, 2009 that it approves amendments to the
3 Settlement Downpayment Loan Program rules as shown in the attached as Exhibit A.

~~Strikethrough~~ indicates deleted language. CAPITAL letters indicate new language.

SETTLEMENT DOWNPAYMENT LOAN PROGRAM

Authority: Section 13.900 et seq., Howard County Code

01. Purpose. These rules prescribe the policies, procedures, and authorizations by which persons may receive loans under the Settlement Downpayment Loan Program.

02. Definitions.

A. The terms appearing in these rules have the meanings defined in the Act and in Section B of this rule.

B. Terms Defined.

(1) "Act" means subtitle 9 of Title 13 of the Howard County Code, as amended.

(2) "Annual income" means gross income based on current rates of annual income received by all household members who intend to reside at the property from all sources less:

(a) unusual or temporary income items; and

(b) unusual expenses of a long-term nature, such as extraordinary medical, physical or mental rehabilitation expense or special education expenses.

(3) "Applicant" means an individual or individuals applying for a loan. If the property to be financed will be owned by more than one individual, each of those individuals shall apply.

(4) "BMSA MEDIAN INCOME" MEANS THE MEDIAN ANNUAL INCOME AS SET FROM TIME TO TIME BY THE UNITED STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR SECTION 8 HOUSING PROGRAMS IN THE BALTIMORE METROPOLITAN STATISTICAL AREA, ADJUSTED FOR FAMILY SIZE.

~~(4)~~ (5) "CDA" means the Community Development Administration of the Maryland Department of Housing and Community Development, or its successor agency.

~~(5)~~ (6) "County" means Howard County, Maryland.

(7) "DEPARTMENT" MEANS THE HOWARD COUNTY DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

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~~(6)~~ (8) "Down payment" means that portion of the purchase price of the property that is not financed by any other loan.

~~(7) "Family" means two or more persons who intend to reside at the property to be financed with a loan.~~

(8) (9) "Homeownership revitalization area" means a residential area in Howard County designated by the Department, with the approval of County Executive, as an area in need of homeownership revitalization because of ~~one or more of the following factors:~~

~~(a) a decline in the resale values of residential properties;~~

~~(b) an increase in the percentage of single family dwellings that have been converted from owner occupied to rental units; or~~

~~(c) a decline in the condition and maintenance of residential properties.~~ A HIGH RATE OF FORECLOSED OR ABANDONED AND VACANT HOMES. AN AREA IS CONSIDERED A HOMEOWNERSHIP REVITALIZATION AREA IF IT IS DESIGNATED AN "AREA OF GREATEST NEED" BY THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR ITS NEIGHBORHOOD CONSERVATION INITIATIVE PROGRAM.

(10) "HOWARD COUNTY MEDIAN INCOME" MEANS THE MEDIAN ANNUAL INCOME OF HOWARD COUNTY AS DETERMINED BY THE U.S. CENSUS BUREAU, ADJUSTED FOR FAMILY SIZE.

~~(9)~~ (11) "Liquidable assets" means cash or assets readily convertible to cash, such as checking and savings accounts, certificates of deposit, stocks, securities, or investments: Liquidable assets includes an Individual Retirement Account ("IRA") established with the applicant's funds, but does not include an IRA established through a rollover of funds transferred from an employer-contributed pension or retirement fund. Liquidable assets does not include tangible personal property.

~~(10)~~ (12) "Loan" means a loan of money made by the Department under the Program.

~~(11) "Maximum annual house payment" means the annual payment of principal, interest, taxes and insurance that would be due under a 30 year fixed rate primary loan made in an amount equal to the applicable maximum purchase price, as established pursuant to Rule 05. The estimated annual payment of taxes and insurance shall be calculated as 1% of the applicable maximum purchase price.~~

~~(12) "Median income" means the median annual income for a family of four~~

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~~as set from time to time by the United State Department of Housing and Urban Development for Section 8 Housing Programs in the Baltimore Metropolitan Statistical Area.~~

(13) "Monthly income" means 1/12th of annual income.

~~(14) "Department" means the Department of Housing and Community Development.~~

~~(15)~~ (14) "Participating lender" means a financial institution that has entered into a pool participation agreement in accordance with Rule 10. A participating lender need not be the primary lender.

~~(16) "Prevailing interest rate" means the prevailing mortgage interest rate for conventional 30 year fixed rate mortgages, as published periodically by the Federal National Mortgage Association or other comparable publication as determined by the County.~~

~~(17)~~ (15) "Primary lender" means a financial institution providing a loan that is used by the applicant to purchase a personal residence. THE PRIMARY LENDER MUST BE IN GOOD STANDING WITH THE MARYLAND OFFICE OF FINANCIAL REGULATION.

~~(18)~~ (16) "Primary loan" means the loan provided by the primary lender that is used by the applicant to purchase a personal residence. A primary loan shall provide for a fixed interest rate and equal monthly payments of principal and interest for the term of the loan. THE TERM OF THE PRIMARY LOAN MUST BE AT LEAST 20 YEARS, EXCEPT THAT A HOMEOWNERSHIP REVITALIZATION AREA LOAN MAY BE FOR A TERM OF NOT LESS THAN 15 YEARS.

~~(19)~~ (17) "Program" means the Settlement Downpayment Loan Program.

~~(20)~~ (18) "Qualified homebuyer" means an applicant who:

(a) either:

(i) during the 3 years before receiving a loan:

(1) has not owned any real property used or usable as a residence; or

(2) has owned a personal residence in joint tenancy but, as a condition of the separation or divorce of the joint tenants or because of the death of one of the joint tenants, needs to purchase a personal residence without the former joint tenant and has disposed of all right, title, and interest to the former personal residence; OR

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(ii) is applying to purchase a personal residence located in a homeownership revitalization area FOR EITHER A REVITALIZATION OR WORKFORCE INITIATIVE LOAN; and

(b) meets the eligibility requirements established under the Act and these rules.

~~(21)~~ (19) "Settlement expenses" means money that must be paid by the applicant at the time of the purchase of the property, including:

(a) Fees or premiums for title examination, title insurance, or similar expenses;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Payments owed at the time of settlement for property taxes or hazard insurance coverage;

(d) Escrows for future payments of taxes and hazard insurance;

(e) Fees for notarizing deeds and other documents;

(f) Appraisal fees;

(g) Fees for credit reports;

(h) Transfer and recordation taxes and fees;

(i) Fees or premiums for mortgage insurance; and

(j) Loan discount points and origination fees.

03. Establishment. There is a Settlement Downpayment Loan Program administered by the Department. The Program is part of the Homeownership Assistance Program established under the Act.

04. TYPES OF LOANS. THE DEPARTMENT WILL OFFER THE FOLLOWING TYPES OF LOANS UNDER THE PROGRAM:

A. "HOMESTARTER" LOAN. A "HOMESTARTER" LOAN IS INTENDED FOR

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HOUSEHOLDS WITH INCOMES OF NOT MORE THAN 80% OF THE BMSA MEDIAN INCOME.

B. "HOMESTEADER" LOAN. A "HOMESTEADER" LOAN IS INTENDED FOR HOUSEHOLDS WITH INCOMES BETWEEN 80% OF THE BMSA MEDIAN INCOME AND 80% OF THE HOWARD COUNTY MEDIAN INCOME.

C. "DREAMMAKER" LOAN. A DREAMMAKER LOAN IS INTENDED FOR HOUSEHOLDS WITH INCOMES BETWEEN 80% AND 100% OF THE HOWARD COUNTY MEDIAN INCOME.

D. "REVITALIZATION" LOAN. A "REVITALIZATION" LOAN IS INTENDED FOR HOMEBUYERS PURCHASING PROPERTIES IN FORECLOSURE PROCEEDINGS AND LOCATED IN HOMEOWNERSHIP REVITALIZATION AREAS.

E. "WORKFORCE INITIATIVE" LOAN. A "WORKFORCE INITIATIVE" LOAN IS INTENDED FOR PERSONS WHO WORK IN HOWARD COUNTY.

F. ADDITIONAL REQUIREMENTS. THE ABOVE LOAN TYPES ARE SUBJECT TO THE ADDITIONAL REQUIREMENTS SET FORTH IN THESE RULES.

04. 05. Eligibility of Applicant.

A. General. To be eligible to receive a loan, an applicant shall be a qualified homebuyer who meets the requirements of the primary lender and of this Rule.

B. Income.

~~(1) Limits Established by Department. Except as provided in paragraphs (2) and (3), the AN applicant's annual income may not exceed the lesser of:~~

~~(a) 110% of median income, or~~

~~(b) The income limits established by the Department for the Program~~
as follows:

~~(i) Semiannually, the Department shall determine the prevailing interest rate as of December 15 and June 15 of each year.~~

~~(ii) Based upon the prevailing interest rate, the Department shall calculate the maximum annual house payment for both individual applicants and families.~~

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~~(iii) The Department shall then calculate the maximum annual income limits for individuals and families, such that the maximum annual house payment equals 30% of the annual income of the individual or family. The calculation of each maximum annual income limit shall be rounded up to the nearest \$100.~~

~~(iv) The income limits established by the Department shall be effective as of January 1 and July 1 of each year.~~

~~(2) CDA Primary Loan. If the primary loan is funded by CDA's single family mortgage program, the applicant's annual income may not exceed the lesser of:~~

~~(a) 110% of median income, or~~

~~(b) the income limits established by CDA for the primary loan.~~

~~(3) Homeownership Revitalization Area. If the loan is for the purchase of a property located in a homeownership revitalization area, the applicant's annual income may not exceed 110% of median income.~~

(1) FOR A HOMESTARTER LOAN, 80% OF THE BMSA MEDIAN INCOME;

(2) FOR A HOMESTEADER LOAN, 80% OF THE HOWARD COUNTY MEDIAN INCOME;

(3) FOR A DREAMMAKER LOAN, 100% OF THE HOWARD COUNTY MEDIAN INCOME;

(4) FOR A REVITALIZATION LOAN OR A WORKFORCE INITIATIVE LOAN, 110% OF THE HOWARD COUNTY MEDIAN.

D. C. Assets. The total value of the applicant's liquidable assets shall not:

~~(1) exceed 12% of the purchase price of the property, and~~

~~(2) be less than an amount equal to:~~

~~(a) (1) one TWO monthly payment PAYMENTS (including principal, interest, and escrows) on the primary loan, plus~~

~~(b) (2) \$1,000.00.~~

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E. D. Affordability. The applicant shall provide evidence, satisfactory to the Department and the primary lender, that the applicant has insufficient liquidable assets to enable the applicant to make a full down payment and pay the settlement expenses on the primary loan AND RETAIN THE RESERVE REQUIRED BY RULE 05.F.

F. E. Credit. The applicant shall meet the minimum credit requirements of the primary lender.

G. F. Applicant's Contribution. The applicant shall contribute, as either a down payment on the primary loan or for settlement expenses, ~~the greater of:~~

~~(1) all of the applicant's liquidable assets, except for an amount equal to two monthly payments (including principal, interest, and escrows) on the primary loan; or~~

~~(2) \$1,000.00.~~

H. G. Other Loans. The applicant may use the proceeds of a loan from CDA's Settlement Expense Loan as part of the applicant's downpayment or settlement expenses; however, the applicant may not use the proceeds of any other loan to pay any part of the applicant's contribution. The priority of the liens of such settlement expense loans shall be determined based upon the relative amounts of the loans.

H. WORKFORCE INITIATIVE LOAN – EMPLOYMENT. TO QUALIFY FOR A WORKFORCE INITIATIVE LOAN, AT LEAST ONE MEMBER OF THE APPLICANT'S HOUSEHOLD MUST BE EMPLOYED FULL-TIME IN HOWARD COUNTY.

05. 06. Maximum Purchase Price.

A. ~~Individual.~~ GENERAL. Except as provided in Rule 05.C 06.B, the purchase price of a property financed with a loan ~~to an individual~~ shall not exceed \$179,800.00.

~~B. Family. Except as provided in Rule 05.C, the purchase price of a property financed with a loan to a family shall not exceed \$212,200.00.~~

~~C. CDA Primary Loan. If the primary loan is funded by CDA's single family mortgage program, the purchase price shall not exceed the maximum purchase price established by CDA for the primary loan~~ ITS SINGLE FAMILY MORTGAGE PROGRAM.

D. B. Adjustments to Maximum Purchase Price. The County Executive may from time to time adjust the maximum purchase price limits for the program in accordance with prevailing market conditions.

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~~06.~~ 07. Use of Loan.

A. GENERAL. EXCEPT AS OTHERWISE PROVIDED OR LIMITED BY THIS RULE, A loan may be used by a qualified homebuyer to pay the down payment or settlement expenses, or both, on a primary loan.

B. LIMITS ON AMOUNT OF DOWNPAYMENT FINANCED. A LOAN MAY NOT BE USED TO FINANCE A DOWNPAYMENT IN EXCESS OF:

(1) THE MINIMUM DOWNPAYMENT REQUIRED BY THE PRIMARY LOAN; OR

(2) FOR A HOMESTARTER LOAN, 10% OF THE PURCHASE PRICE OF THE RESIDENCE.

C. USE OF REVITALIZATION LOAN. A REVITALIZATION LOAN MAY BE USED ONLY FOR SETTLEMENT EXPENSES OR DOWNPAYMENT FOR THE PURCHASE A PERSONAL RESIDENCE LOCATED IN A HOMEOWNERSHIP REVITALIZATION AREA THAT:

(1) HAS HAD MORTGAGE OR TAX FORECLOSURE PROCEEDINGS INITIATED; AND

(2) HAS NOT HAD A MORTGAGE OR TAX PAYMENT MADE FOR AT LEAST 90 DAYS; AND

(3) HAS BEEN OFFERED FOR SALE BY THE OWNER TO THE GENERAL PUBLIC.

D. USE OF WORKFORCE INITIATIVE LOAN. A WORKFORCE INITIATIVE LOAN MAY BE USED ONLY TO PAY UP TO ONE-HALF OF THE TRANSFER AND RECORDATION TAXES DUE ON THE PURCHASE OF A PRIMARY RESIDENCE.

~~07.~~ 08. Loan Amount and Disbursement.

A. Maximum Loan Amount. A loan may not exceed:

~~(1) \$6,000 if made through a participating lender; or~~

~~(2) \$15,000 if made by the department in conjunction with a housing assistance program administered by the County or the Howard County Housing Commission.~~

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- (1) \$40,000 FOR A HOMESTARTER LOAN;
- (2) \$25,000 FOR A HOMESTEADER OR REVITALIZATION LOAN;
- (3) \$15,000 FOR A DREAMMAKER LOAN; AND
- (4) \$4,300 FOR A WORKFORCE INITIATIVE LOAN.

B. Loan Disbursements. A loan shall be disbursed in a lump sum at settlement of the primary loan. The loan shall be disbursed through a settlement agent approved by the Department, in accordance with escrow instructions prepared by the Department.

~~08.~~ 09. Repayment of Loan.

A. Loan Term.

(1) EXCEPT AS PROVIDED IN (2), the term of a loan shall ~~be at least 15 years~~ COEXTENSIVE WITH THE PRIMARY LOAN.

(2) THE TERM OF A WORKFORCE INITIATIVE LOAN SHALL BE 10 YEARS.

B. Interest Rate.

(1) Except as provided in (2), a loan shall be repaid with interest at the rate that is two percentage points below the ~~primary lender's published rate of interest on its thirty-year fixed rate loans as of the date of the primary loan.~~

(2) ~~The rate of interest on a loan made by the department in conjunction with another homeownership assistance program of the County or the Howard County Housing Commission may be established by the department.~~ WORKFORCE INITIATIVE LOAN SHALL BE 0%.

C. Payments.

~~(1) Except as provided in Rule 08.B(2) and C(2), a homebuyer shall make monthly payments of principal and interest in equal installments that will amortize the loan by the end of the loan term. Payments shall be made concurrently with payments on the primary loan.~~

~~(2) Payments on a loan made by the department in conjunction with another homeownership assistance program of the County or the Howard County Housing Commission may be deferred in whole or in part as determined by the department.~~

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PAYMENTS ON A LOAN WILL BE DEFERRED IN THEIR ENTIRETY AND PAYABLE IN ACCORDANCE WITH RULE 09.E.

D. Prepayments. A homebuyer may prepay a loan in whole or in part at any time.

E. Due on Sale, Default, Change in Occupancy, ~~or~~ Refinancing OR END OF TERM.

(1) The entire principal balance of a loan together with all accrued interest shall be immediately due and payable upon the occurrence of any of the following:

- (a) the sale or transfer of the secured property;
- (b) the refinancing of the primary loan (except as provided in ~~(2)~~ RULE 09.G below);
- (c) a default under the primary loan; ~~or~~
- (d) the homebuyer no longer occupies the property as a principal residence; OR

(E) THE END OF THE TERM OF THE LOAN.

F. WORKFORCE INITIATIVE LOAN – PRINCIPAL REDUCTION. THE PRINCIPAL BALANCE OF A WORKFORCE INITIATIVE LOAN SHALL BE REDUCED BY 10% OF THE ORIGINAL LOAN AMOUNT ON EACH ANNIVERSARY OF THE LOAN. AT THE END OF THE FULL LOAN TERM, ALL PRINCIPAL AND ACCRUED INTEREST PAYMENTS SHALL BE FORGIVEN.

G. SUBORDINATION. The Department may agree to subordinate an SDLP loan to allow a homebuyer to refinance the primary loan if:

- (a) ~~the refinancing of the primary loan will occur within 5 years of the origination of the SDLP loan;~~
- ~~(b)~~ the homebuyer meets the income eligibility requirements of Rule ~~04.B~~ 05.B at the time of the refinancing;
- ~~(c)~~ (B) the homebuyer demonstrates that:
 - (i) the homebuyer does not have sufficient liquidable assets to

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repay the SDLP loan, and

(ii) the homebuyer does not have sufficient income to, or is prohibited from, refinancing the SDLP loan. The homebuyer may be required to repay a portion of the SDLP loan to the extent the homebuyer has sufficient liquidable assets to repay the portion of the SDLP loan and/or has sufficient income to enable the homebuyer to refinance the portion of the SDLP Loan;

~~(d)~~ (C) the refinancing of the primary loan will be amortized at a fixed interest rate; AND

~~(e)~~ (D) either:

~~(i)~~ the homebuyer's monthly payment of principal and interest under the primary loan will be reduced by at least 5% under the refinancing, ~~or~~

~~(ii) if the primary loan was an adjustable rate loan, the homebuyer's monthly payments of principal and interest under the new loan will be at least 5% less than the monthly principal and interest payments would have been under the next scheduled adjustment to the interest rate of the primary loan; and~~

~~(f) the primary loan is refinanced by the original participating lender; provided, however, that if the homebuyer demonstrates that another lender's loan terms will result in a greater reduction in the homebuyer's monthly payments of principal and interest than the terms proposed by the original participating lender, then the primary loan may be refinanced by the other lender.~~

~~09.~~ 10. Security.

A. Real Property. A loan relating to the purchase of real property shall be secured by a mortgage lien on the property purchased with the primary loan, which mortgage lien may be subordinate to the lien of the primary loan.

B. Mobile Home. A loan relating to the purchase of a mobile home shall be secured by a security interest in the mobile home.

~~10.~~ 11. Participation by Lenders. A participating lender shall enter into a participation agreement with the County which, among other things, requires the participating lender to:

(a) contribute funds toward a lending pool from which, together with County funds, the County may make SDLP loans;

(b) review and process applications for loans;

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(c) certify applicant eligibility;

(d) arrange pre-purchase counseling for applicants;

(e) settle loans; and

(f) collect repayments on loans and periodically pay to the County the amount of such repayments collected.

11. 12. Application Procedures.

A. Application Form. ~~Except as provided in Rule 11.E,~~ An application shall be made to the ~~participating~~ PRIMARY lender on a form prescribed by the Department.

B. Additional Documents. Together with the application and any other information or materials required by the ~~participating~~ PRIMARY lender, an applicant shall submit to the ~~participating~~ PRIMARY lender:

(1) a contract of sale for the purchase of a property eligible for a loan, which contract shall be contingent upon financing from the program;

(2) the applicant's most recent federal income tax return; and

(3) any other information or documents the Department may require.

~~C. Repayment Schedule. Upon approval of an application, the Department shall promptly prepare a repayment schedule and submit it to the participating lender.~~

~~D. Pre-Purchase Counseling.~~ An applicant shall attend a pre-purchase counseling session held by the Department or a counselor approved by the Department.

~~E. Application to County. If the loan is requested in conjunction with another homeownership assistance program administered by the County or the Howard County Housing Commission, the application shall be made to the department, together with such additional information or documents as the department may require.~~

12. Loan Documents.

A. Real Property. A loan relating to the purchase of real property shall be evidenced by a promissory note to the County and secured by a mortgage or deed of trust to the benefit of the County.

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B. Mobile Home. A loan relating to the purchase of a mobile home shall be evidenced by a promissory note to the County and secured by a security agreement to the benefit of the County.

C. Form. All loan documents shall be in a form prescribed or approved by the ~~County~~ DEPARTMENT.

~~13.~~ 14. Settlement. A participating OR PRIMARY lender may not settle a loan until the participating OR PRIMARY lender has certified in a form acceptable to the Department that the loan complies in all respects with the Act and these Rules.

14. 15. Fees Prohibited. A participating OR PRIMARY lender may not collect from an applicant any fees, points, or other charges for the processing, review, or servicing of a loan. This rule does not prohibit a primary lender ~~that is the participating lender~~ from charging fees, points, or other charges for or in connection with the primary loan; provided, however, that the interest rate, fees, points, or other charges for or in connection with the primary loan are no greater than the rate or charges for similar loans made by the lender not in conjunction with an SDLP loan.

~~15. Modification of Loan.~~

~~A. Affordability. During the term of a loan, a homebuyer may request a modification to the repayment provisions of the loan if and to the extent the homebuyer cannot afford to make the payments. A homebuyer may be considered unable to "afford" to make payments if: (i) the homebuyer's monthly payment on the primary loan, plus (ii) the homebuyer's monthly payments of property taxes, insurance, and condominium or homeowner association fees, if any, plus (iii) the homebuyer's monthly payments on the loan exceed 35% of the homebuyer's monthly income.~~

~~B. Request for Modification. The homebuyer shall submit a request for a modification to the Department by no later than the date that is 90 days prior to (i) the date that the primary lender annually adjust escrows for taxes and insurance, or (ii) such other date as determined by the Department. The request shall be made on a form provided by the Department and shall be accompanied by copies of the homebuyer's latest federal tax return, insurance and tax bills, and such other information as the Department may require.~~

~~C. Revised Documents. If the homebuyer's request is approved by the Department, the Department will revise the homebuyer's payment schedule and submit the revised schedule to the participating lender. The homebuyer shall execute any amendments to the loan documents as are necessary to evidence the modification of the loan terms.~~

16. Nondiscrimination. A participating lender may not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, physical or mental handicap, occupation,

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political opinion, sexual orientation, personal appearance, familial status, source of income, or age in any aspect of the Program, and shall comply with all applicable federal, State, and County laws regarding discrimination and equal opportunity in employment, housing, and credit practices.

17. Waiver. The County Executive may waive or vary particular provisions of these rules to the extent that the waiver is consistent with the Act if, in the determination of the County Executive, the application of a rule in a specific case, or in an emergency situation, would be inequitable or contrary to the purposes of the Act.

18. Severability. The provisions of these rules are severable. A judgment by any court of competent jurisdiction finding or declaring that any provisions of these rules or the application of any provision to any person or circumstance is invalid, does not affect the validity of the remaining provisions of the rules or any other application of these rules, and the remaining rules shall have full force and effect as if no judgment has been entered.

First Adopted: April 6, 1992

Revised: May 6, 1996

Revised: July 6, 1998

Revised: February 7, 2000

REVISED: _____, 2009