

# RESOLUTION 18-16

## To Adopt Final Regulations to Amend the Regulations Governing the Homeownership Assistance Program

### Summary

The purpose of this resolution is to authorize DCHA to adopt as final proposed regulations amending the District of Columbia Housing Authority (“DCHA”) Homeownership Assistance Program. Major changes include implementation of a monthly minimum mortgage, changes to income requirements for eligibility, and increased counseling requirements for participating families. The new regulations also open up the HOAP program to any federal voucher-holders who meet the program requirements, eliminate the 3% down payment requirement, set rules preventing DCHA from approving a home that has failed three inspections, create more options for struggling families to return to rental assistance, allow some families to remain in the program after the death of a mortgage-holder, and remove rules regarding the nonexistent lease-to-purchase program. With these amendments, DCHA seeks both to have the regulation reflect the HOAP as it currently works in practice and to make changes to the program that will help prepare participating families to be successful homeowners.

**RESOLUTION 18-16**

**TO ADOPT FINAL REGULATIONS TO AMEND REGULATIONS GOVERNING THE HOMEOWNERSHIP ASSISTANCE PROGRAM**

WHEREAS, the District of Columbia Housing Authority (DCHA) currently administers the Housing Choice Voucher Homeownership Assistance Program to provide homeownership assistance to eligible low income families;

WHEREAS, DCHA wishes to ensure that all families participating in the Homeownership Program are adequately supported and prepared for homeownership; and

WHEREAS, Section 6-203(12) of the District of Columbia Housing Authority Act of 1999, as amended (the "Act"), empowers the District of Columbia Housing Authority ("DCHA") to adopt and implement administrative procedures in compliance with District of Columbia's Administrative Procedures Act;

WHEREAS, the proposed Rulemaking has been made available to the public for a 30-day comment period, discussed at an advocate meeting on January 18, 2018 and comments received were considered and the accepted revisions were made to the plan accordingly;

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the District of Columbia Housing Authority hereby resolves that the amendments to Title 14 (Housing), Chapter 92 (Housing Choice Voucher/Homeownership Assistance Program (HCV/HOAP)) of the District of Columbia Municipal Regulations, attached hereto, be adopted as proposed herein as Final Regulations.

ADOPTED, by the Board of Commissioners of the District of Columbia Housing Authority and signed in authentication of its passage, the 11th day of July, 2018.

ATTEST:

APPROVAL:

\_\_\_\_\_  
Tyrone Garrett  
Executive Director

\_\_\_\_\_  
Neil Albert  
Chairman

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_

Kenneth Slaughter  
General Counsel



**9217**            **[Reserved]**  
**9219**            **Transfers from Homeownership to Rental Assistance**

**Section 9203, ELIGIBILITY REQUIREMENTS, is amended as follows**  
**Subsections 9203.1 and 9203.2(c) are amended to read as follows:**

**9203**            **ELIGIBILITY REQUIREMENTS**

9203.1            As a minimum threshold for participation in the HOAP, a head of household shall either already be a participant under lease in the federal Housing Choice Voucher Program with tenant-based voucher or be eligible for issuance of a federal tenant-based voucher for the sole purpose of homeownership purchase as described in 9204.1

9203.2            A Family that meets the threshold determination shall then meet the following eligibility requirements:

(c)            Minimum Income.

(1)            The household shall demonstrate that the gross annual income of the adult family members who will own the home at commencement of homeownership assistance meets the higher of \$25,000 or the required District of Columbia Housing and Community Development Home Purchase Assistance (HPAP) Program minimum income requirement, as that requirement changes from time to time.

(2)            Except in the case of an elderly or disabled family, income from a welfare assistance program shall not be counted toward the initial minimum income determination.

(3)            Alternatively, the Family will be found to meet minimum income requirements if the adult family members who will own the home at commencement of homeownership assistance have gross annual income equal to at least 2,000 full-time work hours at the Federal Minimum Wage (FMW) or, for Disabled Families, equal to at least the monthly federal Supplemental Security Income Program benefit for an individual living alone multiplied by 12; and

(i)            The Family demonstrates that it has been pre-qualified or pre-approved for financing;

- (ii) The pre-qualified or pre-approved financing meets the financing requirements outlined in §§ 9210, 9211 and 9212; and
- (iii) The pre-qualified or pre-approved financing amount is sufficient to purchasing housing that meets Housing Quality Standards in the District of Columbia.

**Section 9204, PARTICIPANT SELECTION PROCESS, is amended as follows:**

**Subsection 9204.1 is amended to read as follows:**

**9204 PARTICIPATION SELECTION PROCESS**

- 9204.1 Families shall only be selected for the HOAP based on one of the following:
- (a) Families who have completed the DCHA Housing Choice Voucher Family Self-Sufficiency (FSS) Programs with homeownership as the stated goal;
  - (b) Families in public housing that complete the DCHA Achieving Your Best Life (AYBL) Program that require and qualify for a Housing Choice Voucher to be able to purchase a home; OR
  - (c) Families who are under a lease using a federal tenant-based or project-based housing choice voucher that has met HOAP requirements and need a tenant-based voucher to purchase.

**Section 9205, PROGRAM PARTICIPATION REQUIREMENTS, is amended as follows:**

**Subsections 9205.3, 9205.4, 9205.6(c), 9205.7, and 9205.8(a) are amended to read as follows:**

**9205 PROGRAM PARTICIPATION REQUIREMENTS**

- 9205.3 Homeownership Counseling. The Family shall satisfactorily complete homeownership and housing counseling training, before the Family can proceed to the home buying process. This training for homebuyers shall be provided by the HOAP or its designee and include the following but is not limited to:
- (a) Credit Counseling, including credit repair;
  - (b) The Home Purchase Process, including the selecting of a real estate agent and home inspection professional;
  - (c) Homeownership Financing, including selection among the program's Participating Lenders;
  - (d) Mortgage delinquency/default prevention;

- (e) Consumer (Homebuyer) Protection;
- (f) Home Maintenance and Repair; and
- (g) Choosing a good location.

9205.4 The applicant Family shall supply a copy of the Certificate of Completion upon receipt from District of Columbia Housing and Community Development Home Purchase Assistance Program.

9205.6 Mortgage Pre-approval.

- (c) The mortgage pre-approval letter shall reflect the maximum purchase price, first trust mortgage loan amount, interest rate, and term of loan.

9205.7 Home Search Authorization.

- (a) Upon receipt of their Initial Certificate of Assistance the Family shall select a Lender and present their Initial Certificate of Assistance to apply for their mortgage pre-approval.
- (b) The Family shall be responsible for selecting a lender, independent professional housing inspector and a real estate agent.

9205.8 Home Search Time Limits and Extensions.

- (a) From the date of issuance of a Home Search Authorization, the Family shall be allowed a total time period of one hundred and eighty (180) days to:
  - (1) Search for and find a home;
  - (2) Execute a contract of sale, including the HOAP contract addendum as required under Section 9209;
  - (3) Submit the sales contract to HOAP for review;
  - (4) Obtain a firm loan commitment;
  - (5) Obtain a HQS inspection from HCV;
  - (6) Submit a Professional Inspection Report to HOAP, as provided under Section 9209;
  - (7) Obtain HOAP Notice of Inspection Approval, as provided under Section 9208;
  - (8) Obtain a Final Certificate of Assistance from HOAP;
  - (9) Sign all required HOAP forms and attachments, including:
    - (i) Statement of Homeownership Obligations, required under Section 9215 hereof;

- (ii) A Recapture Agreement and Subordinate Mortgage, as required under Section 9214 hereof;
- (10) Close on the purchase of the property and the mortgage loan;
- (11) Notify HOAP that the Loan has closed and provide to the DCHA HOAP Coordinator or designee a copy of the executed settlement statement and First Mortgage Payment Letter within five (5) business days of closing.

**Section 9208, REVIEW OF PURCHASE CONTRACT AND ISSUANCE OF FINAL CERTIFICATE OF ASSISTANCE, is amended to read as follows:**

- 9208.1 Once the Applicant Family has found a home and executed a purchase agreement, the Family shall provide the HCVP HOAP Homeownership Coordinator or designee with the following required documents for review and/or approval:
- (a) Verification of funds for the initial down-payment;
  - (b) The executed purchase agreement or contract of sale;
  - (c) The professional home inspection report.
- 9208.2 If the Family is a graduate from a DCHA Family Self-Sufficiency (FSS) Program and DCHA has provided the Family with an escrow payment, the Family must put down no less than 40% of the total amount of their escrow payment towards down-payment and closing costs and must disclose the full amount of escrow funds to the lender. The Family may choose to use their FSS escrow payment towards the minimum percentage down-payment and closing cost, OR seek other financial resources that meet the equivalent to the minimum required out of pocket cost.
- 9208.3 If the Family is a graduate from the DCHA AYBL Program and the graduating family has earned an escrow payment, the family must put down the amount required by the AYBL program towards down-payment and closing costs if they choose to purchase a home using federal housing choice voucher assistance,.
- 9208.4 Based on the purchase amount identified in the purchase agreement and the loan terms of the mortgage pre-approval submitted by the Applicant Family, the HOAP shall determine the amount of the HOAP Subsidy and the Total Tenant Payment, taking into account:
- (a) The family composition;
  - (b) The bedroom size of the home;

- (c) The applicable Payment Standard;
- (d) The Family Income as determined on the last annual recertification;
- (e) The estimated homeownership expenses, taking into account the projected mortgage payment, insurance and taxes, and homeownership expenses, calculated in accordance with Subsection 9212.2.

9208.5 HOAP shall review the seller against the debarment and suspension lists provided by HUD and disapprove the contract if the seller appears on such lists.

9208.6 HOAP shall issue a Notice of Approval or Disapproval of Inspection under the provisions in Subsection 9209, below.

9208.7 Unless the purchase contract is disapproved or the Inspection is for Disapproval, the HOAP shall issue a Final Certificate of Assistance, which the Applicant Family shall submit to their Participating Lender in applying for a mortgage loan.

**Section 9209, HOME INSPECTION, is amended as follows:**

**Subsection 9209.1 is amended to read as follows, and adds Subsection 9209.1(a)(3)-(4). Subsection 9209.1(b) will be unchanged:**

**9209 HOME INSPECTION**

9209.1 Before issuance of a Final Certificate of Assistance, the Applicant Family shall schedule two kinds of physical inspections required in the HOAP as follows:

- (a) A HUD Housing Quality Standard (HQS) inspection conducted by DCHA.
  - (1) The HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances or other structural components.
  - (2) However, the HQS inspection shall indicate the current physical condition of the home and repairs necessary to ensure that the home is safe and otherwise habitable.
  - (3) If the home fails the initial inspection, DCHA shall schedule a second inspection. DCHA may require the family to pay for a third (3<sup>rd</sup>) and final inspection, if needed.
  - (4) If the home fails a third inspection, DCHA shall not approve the home purchase.

**Section 9212, HOME OWNERSHIP SUBSIDY TERMS AND CONDITIONS, is amended as follows:**

**Subsections 9212.3, 9212.4, 9212.5 are amended to read as follows. Subsections 9212.3(b) and 9212.4(b)-(e) will be unchanged:**

**9212****HOME OWNERSHIP SUBSIDY TERMS AND CONDITIONS**

## 9212.3

Determination of Homeownership Expenses. The amount of HOAP assistance shall be determined by a HOAP Coordinator after taking into consideration the following costs to the Family:

- (a) For a homeownership loan, the following costs shall be considered:
  - (1) Principal and interest on the initial mortgage debt or any refinanced debt;
  - (2) Any mortgage insurance premium;
  - (3) Real estate taxes on the home;
  - (4) Homeowners insurance;
  - (5) An allowance for maintenance expenses, including major repairs and replacement;
  - (6) Utility allowance, and
  - (7) If the home is a condominium unit or part of a homeowner association, the operating charges, condominium fees and/or maintenance fees assessed by the condominium association or homeowner association.

## 9212.4

Distribution of Monthly HOAP Payments

- (a) The monthly HOAP payment shall be made to an account with a credit union or bank designated by the Family.

## 9212.5

Determination of Total Tenant Payment

- (a) The Total Tenant Payment shall be determined in accordance with 24 C.F.R. § 5.628.
- (b) For the HOAP Program, the minimum rent shall be \$50 per month. Pursuant to 24 C.F.R. § 5.628, that amount will be the minimum Total Tenant Payment.
- (c) A Family that cannot afford the minimum monthly payment of \$50 because of a financial hardship may request an exemption, pursuant to the rules of 24 C.F.R. § 5.630.
  - (1) Exemption requests must be submitted in writing by the Head of Household.

- (2) Once the exemption request is submitted, DCHA shall suspend the minimum monthly payment beginning the month following the request and continuing until DCHA verifies whether there is a qualifying financial hardship and whether it is temporary or long term.
- (3) DCHA will verify whether a qualifying financial hardship exists and whether it is temporary or long-term and respond in writing within ten (10) days of receipt of the verifying information.
- (4) If DCHA determines there is no qualifying hardship, DCHA shall reinstate the minimum monthly payment, including back rent owed from the beginning of the suspension.
- (5) If DCHA determines that a qualifying financial hardship is temporary, DCHA shall not impose the minimum monthly payment during the 90-day period beginning the month following the date of the Family's request for a hardship exemption. At the end of the 90-day suspension period, the DCHA shall reinstate the minimum rent from the beginning of the suspension. The Family will be offered a reasonable repayment agreement, on terms and conditions established by DCHA, for the amount of back rent owed by the family.
- (6) If DCHA determines a qualifying financial hardship is long term, DCHA shall exempt the Family from the minimum monthly payment so long as such hardship continues. Such exemption shall apply from the beginning of the month following the Family's request for a hardship exemption until the end of the qualifying financial hardship.
- (7) Examples of a financial hardship include:
  - i. Loss of eligibility for a federal, state, or local assistance program;
  - ii. Decrease in income because of changed circumstances, including loss of employment;
  - iii. A death in the family; and
  - iv. When the family would be evicted for inability to pay the minimum mortgage.

**Section 9213, MAINTENANCE RESERVE, is amended to read as follows:**

**9213 MAINTENANCE RESERVE**

9213.1 The Family shall establish and maintain a maintenance reserve after the family

has purchased a home for as long as they receive voucher subsidy assistance to assist in them in making monthly mortgage payments or for home maintenance and repairs. This reserve is to be kept in a bank or credit union of the Family's choice.

9213.2 The required maintenance reserve shall be \$50. Participants can elect to put more than the established initial reserve amount in their account at their discretion. The family must provide evidence of this minimum monthly reserve to the HOAP Coordinator as part of their HOAP family obligations at periodic recertification or interim.

9213.3 Purchasers who fail to establish a maintenance reserve account, which shall be verified periodically, by the HOAP Coordinator, shall be required to attend individual counseling sessions.

**Section 9215, HOME OWNER OBLIGATIONS AND CONTINUED ASSISTANCE REQUIREMENTS, is amended as follows:**

**Subsections 9215.2, 9215.3, 9215.5, 9215.7(c), and 9215.8 are amended to read as follows:**

9215.2 The Participating Family shall execute a Statement of Home Ownership Obligation whereby they contractually agree to comply on a continuing basis with the obligations, rules and requirements of the HOAP which cover the following areas:

- (a) Pre and Post-purchase Homeownership Counseling.
- (b) Compliance with mortgage terms and conditions.
- (c) Prohibition against conveyance or transfer of home.
- (d) Supplying Required Information.
- (e) Notice of move-out.
- (f) Notice of mortgage default.
- (g) Prohibition of an ownership interest on second residence.
- (h) Notice of additional grounds for termination of assistance.

9215.3 Post Closing Housing Counseling. The Family shall continue to follow through with participation in Post Settlement home ownership and housing counseling program sessions until the Family is no longer receiving voucher subsidy assistance.

9215.5 Pre-approval for any change in financing. The Family shall obtain written

approval from HOAP or its designee before securing any refinancing on the primary loan, subordinate equity loan or line of credit.

9215.7 Sale or Other Conveyance.

- (c) Upon death of a household member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home:
  - (1) The remaining member(s) are required to inform DCHA of the decedent's death within thirty (30) days of its occurrence.
  - (2) HOAP may continue mortgage subsidy assistance payments up to one year, pending settlement of the decedent's estate, notwithstanding transfer of the title by operation of the law to the decedent's executor or legal representative, provided the home is solely occupied by the remaining household members on the Family composition.
    - (i) The remaining mortgage-holder(s) may submit income and other necessary information about the remaining Family members for DCHA to make a continuing eligibility determination. If the Family remains eligible, they will be allowed to stay in the HOAP program under the terms of their original agreements.
    - (ii) If the remaining household members include at least one disabled adult, elderly adult, or minor, the Family may request to transfer to the Housing Choice Voucher Program.

9215.8 Required Notices to HOAP. Participating Families are required to inform HOAP of certain types of information on a regular or interim basis as follows:

- (a) Change in Expenses. The Family shall inform the HOAP of any change in the household ownership expenses or ability to pay household expenses that shall affect the household's ability to financially handle the change in expense and the monthly mortgage obligations within the time frame set forth in 14 DCMR § 5310.1(a).
- (b) Annual Recertification. The household shall participate fully in the annual recertification process by providing all required documentation, including verification that the mortgage, insurance, utility payments and other home ownership expenses are current.
- (c) Notice of move - with or without resale of home.

- (1) The household shall notify the HOAP of their intent to move out of the home by supplying a written ninety (90)-day notice.
- (2) The household shall notify the HOAP in advance if any household member who owns, in whole or in part, any ownership interest in the home moves out.
- (d) Notice of Mortgage Default. The household shall notify the HOAP if the household defaults on the mortgage securing any debt incurred to purchase the home after receiving the notice of delinquency within the time frame set forth in § 5310.1(a).
- (e) Change in Income or Family Composition. The Family shall inform the HOAP of any change in the source and/or amount of household income and change in the household composition at their annual recertification. A change in household composition shall not result in a reduction in the Payment Standard, but may be used to increase the Payment Standard.
- (f) Pursuant to Chapter 56 of this Title, any monies that HOAP overpays for a Family due to untimely reporting of a change in family composition or income may result in termination of assistance or any of the collection methods referenced in §§ 5600 *et. seq.*

**Section 9217, LEASE-PURCHASE AGREEMENTS, will be removed entirely and its title changed to RESERVED.**

**Section 9219, TRANSFERS FROM HOMEOWNERSHIP TO RENTAL ASSISTANCE, is amended to read as follows:**

**9219 TRANSFERS FROM HOMEOWNERSHIP TO RENTAL ASSISTANCE**

- 9219.1 Criteria for a Transfer. DCHA shall allow a reversion from HOAP assistance to federal tenant-based assistance for the following reasons:
- (a) The elderly-only family fails to maintain their portion of the mortgage payment and is in default jeopardy of foreclosure;
  - (b) The disabled-only family fails to maintain their portion of the mortgage payment and is in default jeopardy of foreclosure;
  - (c) A family in good standing has a substantial loss of household income that cannot be recovered within 12 months of the loss that will cause the family to pay zero towards their portion of mortgage payment;
  - (d) At DCHA's discretion, a Family that has met all of its obligations while participating in the HOAP, may be allowed a reversion from HOAP assistance to federal tenant-based assistance;
  - (e) At DCHA's discretion a family that is in default only because of an inability to inform DCHA of a change in income or family circumstance

by reason of documented participation in a witness protection program or activity that would put the family under the protection of the Violence Against Women Act, may be allowed a reversion from HOAP assistance to federal tenant-based assistance; or

- (f) If the family conveys the title to the home to HUD, an approved designee or representative of the lender, or to DCHA. The Family shall sign a Conveyance Acknowledgment Notice, indicating the requirement to completely transfer and convey the property, and such notice shall be acceptable to the mortgage lender. Reversion during the subsidy period requires that HOAP will receive sales proceeds from the home in order of the interest held.

9219.2 Approval of Rental Voucher. If the Family is approved for transfer from the HOAP, the Housing Choice Voucher Program shall issue the Family a rental voucher and the Family shall complete the normal voucher rental unit search process. During the period the Family is searching for a rental unit, if no mortgage default has occurred and all other program requirements have been satisfied, the HOAP shall continue to provide the Family with home ownership subsidy.

9219.3 Termination of all Assistance. If the family fails to transfer or convey the property as provided hereinabove, resulting in foreclosure of the property, the HOAP payment will be terminated and the HCVP will not provide the family with rental assistance. If a rental assistance lease has commenced, the Housing Choice Voucher Program will terminate both the family Housing Choice Voucher and the rental assistance payment.

9219.4 No concurrent assistance. A Family member who owns an interest in the home cannot receive both HOAP and rental assistance concurrently, except as provided in 9219.2 above.