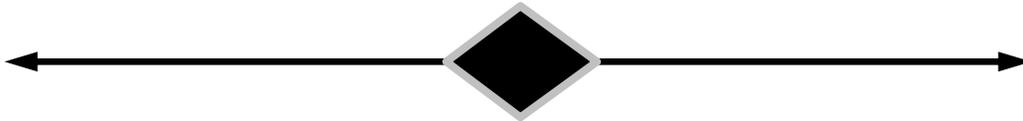


HOME Homebuyer Assistance Policy & Procedure Manual



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INTRODUCTION

The HOME Investment Partnerships Program (HOME) was created under Title II of the National Affordable Housing Act of 1990. Under the HOME program, the Department of Housing and Urban Development (HUD) allocates funds to the State of South Dakota which may be used in accordance with Federal HOME regulations to provide housing opportunities.

South Dakota Housing Development Authority (SDHDA) has been designated by the State of South Dakota as the “participating jurisdiction” or (administrator) of the State’s HOME funds received from HUD.

The National Affordable Housing Act requires that each state develop a Consolidated Housing & Community Development Plan (Consolidated Plan) to identify housing needs. The State of South Dakota’s Consolidated Plan recognizes the need for homebuyer assistance as detailed in the HOME Program Allocation Plan. The HOME Program Allocation Plan, which can be found on SDHDA’s website <http://www.sdhda.org/sdhda-main-website/developer/home-program/home-program> outlines how SDHDA will administer the HOME Program.

Information regarding the Homebuyer Programs can also be found on HUD’s website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/training/web/abc/activities/buyerprograms

SECTION I: PROGRAM OVERVIEW

The primary purpose of the HOME program is to provide decent, safe, and sanitary housing throughout the State of South Dakota. The objective of the HOME homebuyer assistance is to assist in providing homeownership opportunities. The available financing is gap financing, assisting the borrower with the difference between what they can repay and the cost of the home.

To be eligible for HOME funding, a household’s annual income must not exceed eighty percent (80%) of the county Area Median Income (AMI), as determined by HUD and adjusted for family size.

To receive HOME funds a person must occupy the home as their principle residence. Homeowners will be subject to recapture provisions as outlined within this Policies and Procedure Manual and filed as restrictive covenants on the property.

Homeowners receiving HOME homebuyer assistance must execute a Promissory Note and Mortgage and Security Agreement securing the property as collateral for the loan. The HOME loan will be repaid based on the conditions of the Promissory Note.

SECTION II: ELIGIBLE HOMEOWNERSHIP PROGRAMS

A. LEASE-PURCHASE

A lease-purchase housing option is designed to bring homeownership within reach of very low-income and low-income. The homebuyer must purchase the home within 36 months of signing the lease-purchase agreement. If at the end of the 36-month period, the household occupying the lease-purchase unit is not eligible or able to purchase the unit, SDHDA may allow an additional six months to identify an eligible homebuyer to purchase the unit. In all cases, if the unit is not purchased by the end of the 42-month period, the unit must turn into a HOME rental unit and the HOME affordability requirements for rental housing will apply. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed.

B. HOMEOWNERSHIP DEVELOPMENT

Funds may be used for new construction, acquisition and rehabilitation of single family housing units, or the development of affordable lots in housing subdivisions only if construction of single family housing units will begin within 12 months of land purchase. Land banking is prohibited. The purchase price of the single family housing unit must not exceed the appraised value or the HUD published Purchase Price Limits as stated in Section IV.B.1 of the HOME Program Allocation Plan.

Units that have not been sold to an eligible homebuyer within 9 months of project completion must be converted to a HOME rental unit and meet the rental requirements under Section IV.A., including the affordability requirement of Section III.C of the HOME Program Allocation Plan.

HOME funds may be used for utility connections including off-site connections from the property line to the adjacent street and to make improvements to the project site that are in keeping with improvements of surrounding projects. Site improvements may include on-site roads and sewer and water lines necessary for the development of the project.

The developed lots must be sold to persons with an income not exceeding 80 percent of AMI. The applicant will have six months from the time the loan commitment is executed to begin construction on the proposed project.

C. GOVERNOR'S HOUSE HOMEBUYER PROGRAM

The Governor's House Homebuyer Program will provide gap financing to eligible households who are able to obtain a portion, but not all, of the financing for the purchase of a Governor's House. The maximum loan available under this program is limited to \$14,900 or 30 percent (30%) of the total Acquisition Costs minus all grants and donated items, whichever is less, taking into consideration the maximum first mortgage for which the borrower is qualified. Acquisition Cost is defined as all amounts paid either in cash or in kind as consideration for the residence, including closing costs or the cost of acquiring financing. The Acquisition Cost shall not exceed the latest published HOME Program Allocation Plan 2-bedroom Single Family per unit cost limit.

SECTION III: PROGRAM POLICIES

A. INCOME ELIGIBILITY

To qualify for HOME funds, the household's annual gross income may not exceed eighty percent (80%) of the county's AMI, as established by the U.S. Department of Housing and Urban Development (HUD) and adjusted for family size, at the time funds are committed.

Acceptable methods for determining income are described in the HUD publication "Technical Guide for Determining Income and Allowances for the HOME Program" Third Addition Edition, January 2005, which can be ordered from HUD or downloaded online at <http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/1780.cfm>.

Income calculation and verification rules are summarized below:

- i. To determine whether a household is income eligible, the adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual tax income purposes will be used. The calculator found on the HUD HOME Program website at <http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/calculator.cfm> may also be used to calculate income.
- ii. All sources of income used in the calculation, as describe above in Section A (i), must be verified. Therefore, it is not expected to just use the IRS 1040 Tax Form as verification.
 - a. The preferred verification method is through third-party documentation. This method requires that a third-party be contacted to provide proof of the applicant's assets. Written requests mailed directly to the third-party are ideal, however, conversations with a third-party to verify income is acceptable, if accompanied by a memorandum in the file.
 - b. Second-party verification such as documents provided by the applicant (e.g. pay stubs, tax returns, bank account statements, etc.) may be appropriate for verifying certain types of income and can be used as an alternative to third party verifications. Although easier to obtain than third-party verifications, a review of documents often does not provide the needed information. For instance, an employed applicant's pay stubs may not contain sufficient information about the average number of hours worked, overtime, tips and bonuses. A conversation with the third-party may be necessary to accurately project annual income.
 - c. Annual income must be calculated by projecting the prevailing rate of income of the household at the time the household is determined to be income eligible and include any anticipated or known changes, such as raises or promotions. Annual income must include income from all household members over the age of 18.
- iii. The income must be re-verified, if more than 180 days has passed since initial verification.
- iv. If the income verification documentation has already been gathered by the first mortgage lender or service agency, a copy of this information will be sufficient for SDHDA review.

B. PROPERTY ELIGIBILITY

Properties eligible for HOME assistance must comply with the following criteria:

- i. Property must be fee simple, leased, or individual allotted trust land located in South Dakota. Contract for deed, mobile homes and or manufactured homes are not eligible for HOME financing.
- ii. The home must be the principal residence of an income-eligible homeowner occupant.
- iii. For homebuyer activities involving acquisition of newly constructed housing or existing housing, the purchase price shall not exceed the appraised value, local market value, SDHDA's Project Cost Limits (as defined in the HOME Program Allocation Plan), or the HUD published 95% of area median purchase price at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/programs/home/limits/maxprice. For homebuyer activities involving acquisition and rehabilitation, the estimated value after rehabilitation shall not exceed the appraised value or the HUD published 95% of area median purchase price of existing housing. For rehabilitation, the estimated value after rehabilitation shall not exceed SDHDA's Project Cost Limits.
- iv. The property cannot be in conflict with environmental regulations established in the National Environmental Policy Act (NEPA) of 1969. The environmental effects of each activity carried out with HOME funds must be assessed in accordance with HUD's implementing regulations at 24 CFR Parts 50 and 58. To ensure compliance with this Act, SDHDA will ensure the property meets certain determinations, one of which is if the property is eligible for federal flood insurance.
- v. Rehabilitation of housing built before January 1, 1978, must conform to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and the implementing regulations, as applicable. The complete regulation, 24 CFR Part 35, "Lead Safe Housing Regulation: Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, Final Rule" is available on the internet at: <http://www.hud.gov/offices/lead/index.cfm>.

C. PROPERTY STANDARDS AND INSPECTIONS

Property standards ensure that a set of housing quality standards are being used to determine if a unit is decent, safe, and sanitary. In addition, property standards provide a level of inspection for judging the actual physical condition of a property.

Upon completion of the new construction or rehabilitation, the property must:

- i. Be decent, safe, and sanitary.
- ii. Must comply with applicable State and local code(s) and ordinances.

- a. In the absence of a local or State code, the units must meet the International Residential Code 2012.
- b. Compliance may be evidenced by passing a building inspection by a local code official or in absence of local code, an inspector that is certified in accordance to the current state standards.

Upon completion of inspection of the home by local building official or home inspector a copy of the Certificate of Occupancy and/or the inspectors report should be submitted prior to closing.

SDHDA staff will perform periodic property inspections. At a minimum, inspections will occur prior to construction start, at 50% completion and when the property is placed in service.

D. UNDERWRITING STANDARDS

For purposes of ensuring feasible financing opportunities for homeowners, SDHDA will adhere to the following requirements. The requirements must be met for SDHDA financing and all other mortgage financing provided to the homeowner; variance of any item must receive prior approval from SDHDA.

- i. No interest only loans, no balloon payment loans, no reverse mortgages.
- ii. Interest rates cannot be greater than two percent (2%) above SDHDA's first-time homebuyer rate - <http://www.sdhda.org/sdhda-main-website/homebuyer-homeowner/first-time-homebuyer/current-interest-rates>. If it is an adjustable rate mortgage, the rate cannot increase more than two percent (2%) over the life of the loan.
- iii. Origination fees, points and other lender fees cannot exceed \$3,000. SDHDA may reject fees and closing costs that are not reasonable.
- iv. Total financing cannot exceed appraised value.
- v. If HOME repayment term is deferred, the minimum term of the first mortgage shall be 30 years.
- vi. Homebuyer must have a minimum credit score of 620.
- vii. The total of the homebuyer's monthly mortgage payments (principal, interest, taxes and insurance) may not exceed 31% of their gross effective monthly income.
- viii. The homebuyer's total monthly fixed payments may not exceed 43% of gross effective monthly income.
- ix. Homebuyer must have a minimum savings or cash reserves of 2 months of principal, interest, taxes and insurance.
- x. Homebuyer must have a minimum \$500 cash investment.
- xi. Homebuyer must document their attendance at Homebuyer Education presented by a HERO organization. See <http://sdhomebuyer.org/> for a list of HERO organizations.

- xii. First mortgage lender, or second mortgage lender if HOME is first, is required to escrow for taxes and insurance.

E. SUBSIDY LAYERING

SDHDA must limit the investment of HOME, in combination with other sources of public and private funds, to only that amount necessary to meet the property standards identified within this Policies and Procedures Manual and meet project feasibility, in accordance with SDHDA's Subsidy Layering Policy.

SDHDA will underwrite homebuyer assistance for financial feasibility while at the same time ensuring the borrower receives only the amount of HOME funds necessary. HOME funds are considered gap financing.

F. TERMS OF PROMISSORY NOTE, MORTGAGE AND SECURITY AGREEMENT

- i. Terms. HOME funds will be provided to the homebuyer(s) as a zero percent interest (0%) loan, repayable per the terms of the Promissory Note.
- ii. Deferred SDHDA Loan
Repayment of a deferred loan is required under the following circumstances:
 - a. The date the mortgaged property is sold or transferred by the homeowner, whether voluntarily or involuntarily or by operation of law;
 - b. The date a default occurs under the terms of any loan secured by the mortgaged property;
 - c. The date the mortgaged property ceases to be the principal residence of the homeowner.
 - 1. Transfer of Title. If, during the required affordability period, the homeowner sells or otherwise transfers title to the mortgaged property, the promissory note will become due and payable.
 - 2. Refinance. Under limited circumstances during the period of affordability, SDHDA may subordinate to a new mortgage. These circumstances are described in the section that follows. Unless a refinance conforms to these circumstances, SDHDA will not subordinate its position.

G. AFFORDABILITY PERIOD

SDHDA will require an affordability period ranging from 5 to 15 years depending on the amount of HOME funds provided, as further defined in Section III.C. of the HOME Program Allocation Plan. The affordability period and program requirements will be recorded as a restrictive covenant on the property.

H. SUBORDINATION POLICY

- i. Subordination of a loan made by SDHDA under the HOME program is granted at the discretion of SDHDA, and only after consideration of a recommendation made by the SDHDA HOME Development Officer. Factors considered for subordination include the appraised value of the mortgaged property, the outstanding balance of all mortgages, the proposed use of the proceeds of the new mortgage, impact on the repayment of the HOME loan, the needs of the homeowner, and other pertinent facts. The mortgaged property must remain the homeowner's primary residence.

A request for subordination must be in writing and document one or more of the following purposes:

- a. Refinance an existing mortgage to obtain a reduced (fixed) interest rate resulting in a lower monthly payment. (No cash out.)
- b. Refinance an existing mortgage to obtain a comparable (fixed) interest rate and extend payment terms resulting in a lower monthly payment. (No cash out.)
- c. Obtain a home equity loan for the sole purpose of improving the mortgaged property.
- d. Refinance an existing mortgage to halt foreclosure proceedings by a lender or halt tax deed foreclosure proceedings.
- e. Refinance an existing mortgage to pay for medical emergencies not covered by insurance.
- f. For any of the above circumstances, actual customary and reasonable costs required to close the new loan may be included in the new principal mortgage.

- ii. Subordination Limitation

It is the duty of South Dakota Housing Development Authority to manage its HOME loan portfolio in a responsible manner, to not subject tax dollars to unnecessary risk, and to maintain the integrity of the HOME program's intent to assist low income homeowners.

As such, SDHDA will not consider requests to subordinate for cash out for the consolidation of consumer debt, such as credit cards, vehicles, or other "cash to homeowner" transactions. In no case will SDHDA agree to subordinate in a transaction where the loan to value ratio (including outstanding HOME dollars) exceeds 100 percent (100%) of the appraised property value.

- iii. Requested Documentation

All requests for subordination must include the following documents. Requests will not be processed or considered complete until all required documents are received.

- a. Written request from the homeowner(s) indicating the reason for the subordination.
- b. Copy of the appraisal performed on the mortgaged property by a qualified appraiser, if required by the lender. If the lender does not require an appraisal, homeowner must submit a copy of the most recent tax assessment.
- c. Copy of the lender's good faith estimate of closing costs, signed by the borrower.

Subordination request must be submitted to the following address:

South Dakota Housing Development Authority
3060 East Elizabeth
PO Box 1237
Pierre, SD 57501

Attn: HOME Development Officer
Tel: (605) 773-3181 / Fax: (605) 773-5154

Upon approval, SDHDA will draft and forward an executed subordination agreement to the homeowner or their agent. All filing costs associated with this document shall be the responsibility of the homeowner. Please allow 7-10 working days for subordination requests to be processed.

I. RECAPTURE/RESALE RESTRICTIONS

Homebuyers assisted under the HOME Program will be required to adhere to the following recapture or resale guidelines as specified by 24 CFR Part 92.254.

- i. Recapture: If the house is sold (voluntary or involuntary), or is no longer used as a principal residence, prior to the end of the affordability period as defined in Section III.C. of the HOME Program Allocation Plan, SDHDA will recapture the entire amount of the HOME funds provided to the homebuyer, or at a minimum, net sale proceeds. Net sale proceeds are the sales price minus the first mortgage repayment and closing costs.
- ii. Resale: For HOME projects that utilize HOME funds as a development subsidy, the following resale requirements apply:
 - a. The housing must remain affordable to low-income homebuyers for the period of affordability per Section III.C. of the HOME Program Allocation Plan starting at the date of initial purchase. The purchaser's household income must be at or below 80 percent (80%) of AMI as defined by the IRS Form 1040 Adjusted Gross Income definition for annual (gross) income and the purchaser must occupy the property as the purchaser's principal residence.
 - b. The percentage of the purchaser's household income that can be used to pay the principal, interest, taxes, and insurance (PITI) is equivalent to the underwriting standards established by the purchaser's lender. However, if a non-traditional lender is underwriting the financing, the PITI must be 30 percent or less of the purchaser's household income.
 - c. The seller receives a "fair return on investment", which is defined as no more than the seller's initial investment and up to five percent appreciation for each year the seller owned the home.