

BREVARD COUNTY HOME CONSORTIUM RECAPTURE GUIDELINES

The Brevard County HOME Consortium will follow the recapture provisions described in these guidelines. The Consortium's homebuyer assistance program is designed to assist eligible applicants with the purchase of decent, safe, and sanitary housing by providing financial assistance for any combination of down payment, repairs, principal reduction and closing costs for new construction and/or existing housing. Both the potential HOME housing unit and the assisted client must be eligible for the program, following specific standards and requirements from HUD. Funds for assistance can be used in the form of amortized, non-amortized, forgivable, or deferred payment loans. Recaptured funds will be used to carry out HOME eligible activities in accordance with 24 CFR Part 92.

Recapture Provisions

1. Program funds will be secured by a lien, primary or subordinate mortgage; and affordability restrictions enforced via a land use agreement or deed restriction.
2. The HOME-assisted housing unit must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion.

Homeownership assistance HOME amount per-unit	Minimum period of affordability in years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

3. If at any time during the period of affordability the housing unit assisted with HOME funds ceases to be the principal residence of the eligible homeowner, or any other terms of the mortgage or land use agreement are violated, then the mortgage balance will become due in full.
4. In the event of a sale during the period of affordability, (voluntary or involuntary), of a housing unit which used HOME funds for purchase assistance, the Consortium shall, at a minimum, recapture the entire amount due from the net proceeds of the sale. (The net proceeds are the sales price minus superior loan repayments, other than HOME funds, and any closing costs.)
 - A. When the property is sold and in the event that there are no net proceeds, or the net proceeds are insufficient to repay the total HOME investment due, the Consortium shall recapture the net proceeds, if any, in full. The recapture of the net proceeds shall constitute the satisfaction of the HOME mortgage, in accordance with 24 CFR 92.254(a)(5)(ii)(A).
 - B. Under a voluntary sale, the homeowner must sell the home at fair market value. The Consortium will retain the right, but not the obligation, to require the homeowner, at the homeowners' expense, to obtain a certified appraisal to demonstrate fair market value.

- C. The HOME funds subject to recapture are based on the amount of HOME assistance that enabled the homebuyer to buy the eligible unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property. (i.e., the development subsidy) When the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the development subsidy is subject to Resale Restrictions in accordance with 24 CFR 92.254(a)(5)(i).
- D. If the housing unit is sold after expiration of the affordability period, the loan and all recapture provisions are forgiven.
5. It is the intent of the Consortium that properties that receive funding under the HOME assistance program continue as affordable housing after any sale and/or transfer (voluntary or involuntary) during the affordability period. Notwithstanding payment of any recapture funds and/or shared equity, in the event of a sale or transfer of the property during the period of affordability (voluntary or involuntary), the Land Use Restriction Agreement (LURA) placed upon the property shall run with the land and shall bind all successors and assigns during the term of the Land Use Restriction Agreement (LURA).

Shared Equity Provisions

In the event of a sale during the period of affordability (voluntary or involuntary) of a rental housing unit which used HOME funds, in addition to the recapture of HOME funds as set forth above, the Consortium shall also require a proportionate amount of any equity created by the use of the HOME investment as set forth in the mathematical formula noted below:

A. Consortium Equity:

$$\text{HOME investment} + \text{owner investment} \times \frac{\text{HOME investment}}{\text{HOME investment} + \text{owner investment}} = \text{additional equity to be recaptured}$$

B. Owner Equity:

$$\text{HOME investment} + \text{owner investment} \times \frac{\text{HOME owner investment}}{\text{HOME investment} + \text{owner investment}} = \text{amount to owner}$$

For purposes of this Shared Equity Provision Section, terms are defined as follows:

- HOME investment: any amount expended, including program income, that was directly attributable to the activity.
- Owner investment: any capital investments or improvements made by the owner (including purchase of land, down payment and closing costs, etc.).
- Equity: (Sales price – HOME investment – owner investment). Any closing costs associated with the sale or transfer of the property shall not be paid for by the Consortium and shall not be used to reduce the equity used for the shared equity calculation.