

§ 248.303

(d) Includes a complete set of pro forma mortgage and/or regulatory documents which evidence an owner's ability to prepay the assisted or subsidized mortgage without the consent of the State agency;

(e) Includes a list of all properties assisted under the State or local housing program whose owners are eligible to prepay the assisted or subsidized mortgages without the consent of the State agency.

§ 248.303 Approval of a State agency's initial application.

(a) The Commissioner will evaluate the State agency's application and will notify the State agency within 90 days of receipt that the program and properties qualify under subpart D of this part or that the program and properties do not qualify under subpart D of this part.

(b) If the Commissioner determines that the program and projects do not qualify under subpart D of this part, it will state the reasons why the program and properties do not qualify and will give the State agency an opportunity to provide additional information, as the Commissioner determines, which would assist the Commissioner in qualifying the program and properties.

§ 248.305 Applicability of subpart B of this part.

The provisions of subpart B of this part shall be applicable to any application of a State agency or local housing authority for assistance under subpart D of this part, except the following provisions:

Sec.

- 248.103 General prepayment limitation.
- 248.105 Notice of intent.
- 248.131 Information from the Commissioner:
Only paragraph (a).
- 248.141 Criteria for approval of a plan of action involving prepayment and voluntary termination.
- 248.153 Incentives to extend low income use:
Only paragraphs (a)(7), (d) and (e).
- 248.165 Assistance for displaced tenants.
- 248.169 Permissible prepayment or voluntary termination and modification of commitments.
- 248.173 Resident homeownership program:
Only paragraph (s).
- 248.177 Delegated responsibility to State agencies.

24 CFR Ch. II (4-1-10 Edition)

§ 248.307 Authority to process and approve notices of intent and plans of action.

(a) *Delegation of authority.* State agencies which regulate or otherwise supervise owners of projects with State assisted or subsidized mortgages shall have the authority, reserved to the Commissioner under subpart B of this part, to process and approve all notices of intent and plans of action submitted to the State agency or local housing authority under subpart D of this part. State agencies may redelegate such authority to local housing authorities at their discretion.

(b) *Designation of processing agency.* The Executive Director of the State agency whose State assisted or subsidized mortgage program has been approved under § 248.303 shall inform all owners of projects with State assisted or subsidized mortgages that the State agency or a designated local housing authority shall accept and process notices of intent and plans of action.

§ 248.311 Notice of intent.

(a) *Eligibility for filing.* An owner of a project with a State assisted or subsidized mortgage intending to extend the low income affordability restrictions of the housing in accordance with § 248.153 or transfer the housing to a qualified purchaser under § 248.157 may file a notice of intent.

(b) *Filing with the State agency.* The notice of intent shall be filed with the agency specified in § 248.307(b) or the agency which regulates or otherwise supervises the State assisted or subsidized mortgage. The notice of intent shall also request the tenants to notify the owner and the State agency of any individual or organization that has been designated or retained by the tenants to represent the tenants with respect to the actions to be taken under subpart B and subpart D of this part.

(c) *Filing with HUD, mortgagee and tenants.* The owner simultaneously shall file the notice of intent with the local HUD field office having jurisdiction over the area in which the project is located and with the mortgagee, if any. In addition, the owner shall deliver a copy of the notice of intent to each tenant in the project and to any tenant representative, if any, known to

the owner, and shall post a copy of the notice of intent in readily accessible locations within each affected building of the project. The copies of the notice of intent delivered to the tenants and the tenant representative shall include a summary of possible outcomes of the filing which shall be furnished by the State agency. Upon the request of any non-English speaking tenants residing in the affected project, the owner shall tabulate the number and type of translations needed by the tenants and request the State agency to provide the appropriate translations. The owner shall deliver a copy of the translated notice of intent to all of the tenants who requested such a translation. The failure of an owner to comply with any non-federal notice requirements shall not invalidate the notice of intent.

§ 248.315 Preservation agreements.

(a) *Agreements required.* Owners of projects with State assisted or subsidized mortgages whose plans of action have been approved under § 248.307 shall enter into agreements, contracts and/or mortgage modifications with the State agency or local housing authority to maintain the housing as affordable to tenants in accordance with § 248.145. Such agreements may provide for the renewal of any assistance made available under § 248.319(c).

(b) *Term of agreement.* Preservation agreements shall be coterminous with the expiration of any assistance provided under § 248.153 and made available in accordance with § 248.319(c).

§ 248.319 Application for assistance.

(a) *Application for assistance.* State agencies or local housing authorities shall submit an application for assistance in a form prescribed by the Commissioner with the local HUD field office having jurisdiction over the project. The application shall include:

(1) A copy of the approved plan of action, including all applicable notices of intent;

(2) A copy of any worksheet or other document which demonstrates the extension and transfer preservation values of the project, the Federal cost limits (including the determination of relevant local market rents if applicable), and the preservation rents;

(3) A request for each incentive required as part of the approved plan of action and the amount thereof;

(4) A demonstration and certification by the Executive Director of the State agency or local housing authority that the assistance and incentives requested as part of the approved plan of action do not exceed the level of incentives required for a similarly situated project which is eligible low income housing as defined in subpart B of this part;

(5) Copies of proposed agreements, contracts and mortgage modifications proposed pursuant to § 248.315.

(b) *Notification of approval.* Not later than 90 days after receipt of the application for assistance, the local HUD field office shall notify the Executive Director of the State agency or local housing authority of the approval or disapproval of the application. If the application is disapproved, the notification shall state the reasons therefor and afford the State agency or local housing authority the opportunity to revise the application to make it approvable.

(c) *Funding.* After approving the State agency's or local housing authority's application for assistance, the HUD field office shall make the assistance in the approved application available to the State agency or local housing authority within the time frames specified in § 248.169.

(d) *Agreements.* The State agency or local housing authority shall provide the local HUD field office with a copy of all agreements entered into with the owner pursuant to § 248.315.

(e) *Section 8 contract administration.* Any contract for Section 8 assistance made pursuant to the approved plan of action, the State agency's or local housing authority's application for assistance and the regulations at 24 CFR 886, subpart A shall be administered by the State agency or local housing authority pursuant to § 886.120 of this title.

Subpart E—Technical Assistance and Capacity Building

SOURCE: 58 FR 37817, July 13, 1993, unless otherwise noted.