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# HOMEownership Down Payment & Closing Cost Assistance Program

Virginia Department of Housing and Community Development

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# HOMEownership Down Payment & Closing Assistance Program

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# INTRODUCTION

The **HOMEownership** Down Payment & Closing Cost Assistance Program operates through local partnerships with governmental entities, non-profit housing service providers, and mortgage lenders across the Commonwealth. DHCD is seeking to competitively maintain a regional network of grant administrators who offer housing counseling and pre-qualification screening for eligibility on a first-come, first-served basis to address all regions of the state targeting first-time homebuyers with incomes at or below 80% of the Area Median Income (AMI) as established by the U.S. Department of Housing and Urban Development (HUD). The program structure must promote equitable access to HOME funds by both entitlement and non-entitlement communities based on income and credit criteria. The assistance is offered as a forgivable loan to eligible homebuyers.

## **PROGRAM DESCRIPTION**

### **PROGRAM GOAL: HOMEOWNERSHIP ASSISTANCE**

The HOMEownership Down Payment & Closing Cost Assistance Program is a flexible gap financing program that provides opportunities for first-time homebuyers to obtain homes that are safe, decent, and accessible. The long term goal is sustainable housing and growth in personal wealth and equity for low-income Virginians. Applicants who submit proposals to administer HOME funds for DHCD must have a program of assistance outlined that would provide a mechanism to qualify eligible homebuyers based on actual financial need, on a first-come, first-served basis.

Applicants must demonstrate the capacity to identify target markets, housing stock and homebuyers to increase the numbers of homeowners in Virginia. Applicants must describe a clear plan of action which demonstrates their knowledge of, and past work with, the target markets, barriers to access, available qualified housing stock, and potential homebuyers who are either currently prepared or who will be prepared in the very near future to enter homeownership. The goal of “placing low- income persons in the position of homeownership” is too vague; the goals of the program must be clearly defined and stated outcomes must be measurable.

In order to describe the need for housing assistance costs of the target population applicants should not rely solely on waiting list information maintained by their organization. Organizations should collaborate with other local sources such as housing assistance waiting lists, other housing program grantees and administrators, social service agencies, area agencies on aging, and local building and fire officials to determine target populations. Program designs that emphasize public/private partnerships will be given priority consideration.

### **APPLIED FORMULAS FOR ALL HOME-ASSISTED UNITS**

Administrative requirements for the HOMEownership Down Payment & Closing Cost Assistance Program will follow the established guidelines specified in the HOME Final Rule (see [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/24cfr92\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/24cfr92_03.html)). The maximum amount of direct assistance to the homebuyer cannot exceed 10% of the sales price, and should be

determined by a debt to income ratio analysis that does not exceed the maximum FHA standard on a first mortgage loan for housing costs and revolving debt. Homebuyers in localities of the state which have been designated as “high cost areas” or “chronically economically depressed” (see addendum A) may receive “up to” 20% of the sales price as the need demands. In addition, the Regional Administrator can provide an additional \$2,500 in HOME subsidy to cover eligible closing costs not adequately paid by the seller.

***HIGH COST/CHRONICALLY ECONOMICALLY DEPRESSED Localities:***

Albemarle	Floyd	Prince William
Alexandria	Frederick	Pulaski
Allegany	Fredericksburg	Rockingham
Annandale	Giles	Russell
Arlington	Grayson	Salem
Bath	Herndon	Scott
Bland	Highland	Shenandoah
Buchanan	King George	Smyth
Carroll	Lee	Spotsylvania
Charlottesville	Loudon	Stafford
Clark	Madison	Tazewell
Craig	Manassas	Warren
Culpepper	McLean	Winchester
Dickenson	Montgomery	Wise
Fairfax	Nelson	Wythe
Falls Church	Orange	
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**PROGRAM REQUIREMENTS**

The HOMEownership Down Payment & Closing Cost Assistance Program is designed to operate through local partnerships with governmental entities, non-profit housing service providers, and mortgage lenders across the Commonwealth. Administrators selected to administer the HOME program funds must be units of local government or nonprofit organizations that are actively participating in housing programs on a regional basis. Administrators may be located in HOME-entitlement areas of Virginia as long as they also provide service through their organization to non-entitlement communities.

The HOME program specifically requires:

- Down payment and closing costs for identified populations where total family household income does not exceed 80 percent of the area median income;
- Supportive services including preliminary homebuyer services; i.e., pre-qualification screening, and housing counseling services;
- Access to HOME program funds must be offered on a first-come, first-served basis; and
- Assisted housing and associated costs cannot exceed 95 percent of the area median home sales price which are established by HUD as the 203B limits.

## I. CLIENT ELIGIBILITY:

Participation in the program is limited to credit-eligible homebuyers at or below 80 percent of the area median income (AMI) as defined by HUD based on household size and geographic location of the assisted property. Homebuyers with total household incomes in excess of 80 percent AMI are not eligible for this assistance. HOME down payment and closing cost assistance is not an entitlement, but a limited public resource to be used to further first time home ownership for those who without this assistance would not be able to move forward with a home purchase. Use the following links to review income tables and the maximum area sales price:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/2013/va.pdf>

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/affordablehousing/programs/home/limits/maxprice](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/programs/home/limits/maxprice)

## II. HOMEBUYER OR BENEFICIARY CRITERIA AND PROGRAM GUIDELINES:

1. Homebuyers must meet all eligibility requirements:
  - a. Qualify as a first-time Homebuyer as defined by one of the following:
    - i. have never owned a home before; or
    - ii. have not held primary ownership in a principle residence within the most recent three year period;
  - b. Receive homeownership counseling;
  - c. Complete a HUD-certified Homebuyer Education Course through a VHDA or Neighborworks® certified course;
  - d. Possess a signed purchase offer for a property (turn key at the time of settlement);
  - e. Demonstrate that their income does not exceed 80 percent of the AMI;
  - f. Provide one percent of the sales price of the home from their personal funds towards the purchase of the home or a minimum contribution of \$500.
2. *NOTE:* If purchaser puts down more than the required amount of cash to purchase a home, the additional cash will go towards the purchase of the home. If it is determined the purchaser will receive funds back at closing, then the HOME funds **MUST** be reduced by that amount. No FUNDS will be *RETURNED* or *REIMBURSED* (regardless of the source) to the purchaser at closing/settlement when HOME funds are awarded for down payment and/or closing cost assistance.

The Administrator is responsible for reviewing the final HUD1 prior to closing. If it is determined that the purchaser is receiving cash back at closing, then the HOME funds “**MUST**” be reduced by that amount. If the purchaser is required to pay any costs up front that would have an effect on settlement, the administrator must make appropriate adjustments to prevent cash back at closing.

3. The Administrator’s homebuyer application must clearly disclose all program requirements and fees to the homebuyer.
  - a. The purchaser must sign a homebuyer agreement form with the administrator for the down payment and/or closing assistance.
  - b. All information and documentation must be retained by the Administrator for the minimum required affordability period from the date of loan closing.

4. Eligible properties must meet programmatic requirements of Mortgage Lenders and include the following:
  - a. Single-family property (one unit);
  - b. Two-unit property where one unit will be the principle residence of the purchaser and the second is a HOME rental unit;
  - c. Townhouse homes;
  - d. Condominiums
  - e. Manufactured home
    - i. The manufactured housing must be connected to permanent utility hook-ups. The manufactured housing must be located on land that is owned by the manufactured housing unit owner, or on land for which the manufactured housing unit owner has a lease for a period at least equal to the applicable period of affordability.
  
5. Program guidelines:
  - a. Funding is limited to down payment and closing cost assistance for purchasers at or below 80 percent AMI. Purchasers can receive up to 10 percent or 20 percent (within the established approved areas by DHCD) of the sales price.
  - b. Homebuyers with cash assets of 10 percent or more of the sales price will not be eligible for down payment and closing cost assistance (i.e. assets which cannot be liquidated without the applicant incurring a penalty- written verification will be required).
  - c. Loan packages submitted for funding consideration cannot exceed 95 percent of the loan to value (LTV) or a cumulative LTV of 108 percent including any other sources of subsidies. Administrators should be aware of the comparable sales prices in their targeted areas.
  - d. Homebuyers must meet the usual and customary mortgage underwriting criteria that demonstrate creditworthiness sufficient to obtain a mortgage loan commitment.
  - e. A complete FHA appraisal must be conducted on all HOME-assisted properties. Home values may not exceed 95 percent of the area median sales prices (203B limits established by HUD).
  - f. All units of housing must meet the applicable Virginia Housing Property Standards upon final settlement or closing. (APPENDIX C). This completed inspection form must be included in each client file.
  - g. HUD lead-safe provisions apply to all assisted home properties purchased. This includes a notice of lead hazard, visual inspections, remedy of any lead problems, and re-inspection if applicable.
  - h. The files of the Administrator must include a written completed calculation of income for each homebuyer compared to applicable limits of the program. Any changes to the calculation of income up until closing must be properly documented in writing and signed by the client, and included in the file.

If the property is two units, one of the units must be owner-occupied and the second unit must be a HOME-assisted rental unit. The rental requirements that apply include the rent must be restricted to someone below 80% of area median income, the maximum rent is the High HOME rent minus tenant paid utilities, there must be an executed lease that is for one-year and does not contain prohibited lease provisions, and the unit must meet housing quality standards (HQS) unless there is a local housing code that is more restrictive on occupancy. The income-certified low-income households must be approved in writing by the Local Administrator, with approval

from the DHCD, and the homebuyer shall submit for written approval of the Local Administrator and the DHCD copies of all proposed leases prior to having them signed by any proposed tenant.

6. Affordability Period

- a. The Period of Affordability is based on the **direct** HOME subsidy provided to the homebuyer that enabled the homebuyer to purchase the unit. A direct subsidy consists of any financial assistance that reduces the purchase price from fair market value to an affordable price or otherwise subsidizes the purchase (e.g., down payment or closing cost assistance). It is the responsibility of the program administrator to assure that all HOME funds are included in the calculation of the affordability period.

<i>Amount of Assistance or Subsidy</i>	<i>Affordability Period by Years</i>
\$1,000 – \$14,999	5
\$15,000 - \$40,000	10
Amounts over \$40,000	15

- b. No monthly repayment is required on the forgivable HOME loan issued by DHCD. The applied subsidy will be forgiven at the end of the period of affordability.
- c. *Recapture*: Homebuyers are subject to recapture restrictions to ensure that the home remains affordable consistent with the applicable period of affordability. DHCD’s program design incorporates the recapture provision consistent with the standards in the HUD HOME Investment Partnerships Program Final Rule 24 CFR 92.254.

If the homebuyer sells or transfers title of the HOME assisted property, either voluntarily or involuntarily, during the Period of Affordability, the state will recapture, from the available net proceeds, the entire amount of the HOME investment from the homebuyer. If there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, the state can only recapture the amount of the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment (other than HOME funds) and any closing costs.

The recapture provision applies to all properties that receive down payment or closing cost assistance through this program, even loans that are assumable. If a homebuyer assisted through this program allows the property to be assumed by another party prior to the end of the affordability period the total amount of assistance will be recaptured and returned to DHCD.

The forgivable HOME loan IS NOT Assumable. If the new homebuyer receives an Assumable 1<sup>st</sup> lien position primary mortgage giving the original homebuyer the right to assign the unpaid balance of his obligation, without prepayment penalty, to another person upon sale of the mortgaged property, the forgivable HOME loan MAY NOT be assumed and the recapture provision is triggered. The state will recapture, from the available net proceeds, the entire amount of the HOME investment from the original homebuyer and the property ceases to be a HOME assisted unit.

- d. *Repayment*: The owner of the HOME-assisted Unit shall at all times maintain the Affordable Unit as his or her principal place of residence during the Period of

Affordability. At no time shall the owner of the HOME-assisted Unit lease or rent the Affordable Unit to any person or persons. Failure of the homebuyer to occupy the HOME assisted unit as his or her principal residence (i.e., unit is rented or vacant) will trigger the *repayment* of the entire outstanding HOME investment. DHCD will attempt to bring the property back into compliance by having the homebuyer re-occupy the property. If re-occupancy fails, the homebuyer must repay the entire HOME investment back to the state of VA.

- e. Homebuyers must execute a Restricted Deed of Covenant for the amount of the HOME subsidy with a term that runs consistent with the applicable affordability period) (APPENDIX B); **NOTE:** Minimum HOME Investment per unit is \$1,000 per HUD regulations (24 CFR 92.205 Section C).
  - f. Homebuyers must understand that there will be a lien placed on the property during the affordability period.
  - g. The homebuyer(s) may prepay the whole unpaid balance of this indebtedness at any time without penalty. However, the provisions of the HOME homebuyer agreement will not be released during the affordability period.
  - h. The program will consider a re-subordination agreement in the case of a refinance or equity line of credit in certain extenuating circumstances where a loan modification will allow the house to remain an affordable unit and assist the buyer in maintaining the property as their primary residence. In no case shall the program consider cash out or equity refinancing. All requests must be submitted to DHCD in writing.
7. Examples of eligible first mortgage products may include, but are not limited to, the following:
- a. Programs designated by VHDA that are in the interest of assisting homebuyers acquire affordable homes;
  - b. VHDA SPARC mortgages for borrowers up to 80 percent AMI when there is a SPARC Loan Commitment;
  - c. BB&T Community Homeownership Incentive Program (CHIP) mortgages;
  - d. SunTrust 97 percent Flex mortgages;
  - e. Wells Fargo First Time Homebuyer Products;
  - f. Fixed Rate FHA 30-Year mortgages originated with a VHDA-approved lender;
  - g. Rural Housing Services Guaranteed or Direct Loans through USDA Rural Development.

### III. INCOME DETERMINATION:

For all families, the Administrator shall determine annual income by examining the source documents evidencing annual income (e.g., wage statement, interest statement, and any unemployment compensation statement) for the household or family. When determining whether a household or family is income eligible, the Administrator shall use the following definition of "annual income" for the HOMEownership Down Payment & Closing Cost Assistance Program.

Annual Income as reported under the Part 5 definition of income (Section 8).

1. Total household income includes all of the following:
  - a. Wages, salaries, tips, etc.;
  - b. Business Income;
  - c. Interest & Dividend Income;
  - d. Retirement and Insurance Income;

- e. Unemployment and Disability Income;
- f. Welfare Assistance; Alimony, Child Support, and Gift Income; and
- g. Armed Forces Income

More detailed information may be found at <http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/definitions/part5.cfm>

#### IV. SITE OR MONITORING VISITS:

1. Administrators are subject to annual site visits by DHCD staff, or their designees and contractors, to monitor activities and determine that all applicable HOME regulations are being met. This includes an inspection of all project and homebuyer files concerning beneficiaries in HOME-assisted units such as the following:
  - a. Evidence of Housing Counseling;
  - b. Checklist should be in every file (APPENDIX A)
  - c. Administrator's application for assistance;
  - d. Certifications of income;
  - e. Appraisals;
  - f. Virginia Housing Property Standards Inspections;
  - g. Lead-Safe Provisions
  - h. Home Investment Partnerships Program Deed of Trust (Copy);
  - i. Title Insurance Policy;
  - j. Good Faith Estimate;
  - k. Promissory Note;
  - l. Hazard and Liability Insurance Policies;
  - m. Termite Inspection and evidence of treatment, if necessary;
  - n. HUD – 1 Settlement Statement (Executed Copy);
  - o. HOME Project Set Up and Completion Reports; etc.
2. Administrators must disclose the following policies and related procedures at any time during the period of the written Agreement:
  - a. Conflict of Interest policy;
  - b. Fair Housing policy;
  - c. Affirmative Marketing policy;
  - d. Equal Employment policy;
  - e. Non-discrimination policy; and
  - f. Drug-free workplace policy.
3. Nonprofit organizations will be required to provide written records of the following documentation with any contract that is negotiated:
  - a. Internal Revenue Service 501 (c) 3 designation;
  - b. Articles of Incorporation;
  - c. State Corporation Certificate;
  - d. Agency By-laws; and
  - e. List of current Board Members.

#### V. ADMINISTRATORS' FINANCIAL AUDITS:

Administrators shall be responsible for submitting an annual, independent, organization-wide audit for each fiscal year in which the organization receives funding from DHCD. Organizations expending more than \$500,000 in federal funds, from all sources, during their fiscal year are required to follow the federal requirements of OMB Circular A-133 for that audit.

VI. REPORTING CHARACTERISTICS AND OUTCOMES OF THOSE COUNSELED FOR HOMEOWNERSHIP:

DHCD will collect data pertinent to those potential homebuyers who were unable to access and receive the benefit of HOME program funds as well as those who received the benefit.

VII. PROCESS STEPS AND REQUIREMENTS:

There are three basic steps in the process to provide HOME program funds to homebuyers: Setting up or reserving the funds: disbursing the funds for their use in the final settlement or closing of their real estate transaction: and completing the activity in the HUD accounting system.

1. Set Up Report/Completion Report – To Reserve or Commit Funds for the Homebuyer submit the following completed forms and documents to DHCD:
  - a. HUD Set Up/Completion Form (APPENDIX D)
  - b. Copy of the Verification of Income, and/or pay stubs or tax returns
  - c. Good Faith Estimate
  - d. Financial Information Sheet (APPENDIX I)
  - e. Copy of Homebuyer Agreement (APPENDIX H)
  - f. Sales Contract
  - g. DPA Subsidy Layering Review Worksheet (APPENDIX F)
  - h. Income Calculator Worksheet (APPENDIX K)
  - i. Environmental Review Form (DHCD will complete)
2. Disbursement of the Funds – To Request that DHCD Disburse the Funds to either the administrator or the settlement agent or attorney submit the following completed forms and documents to DHCD:
  - a. Disbursement Request Form (APPENDIX E)
  - b. Revised documents WHEN the loan commitment and or income have changed and the client still meets the eligibility requirements
  - c. Copy of the Lender's Loan Commitment Letter

**NOTE:** Administrators must be set up through the Virginia Department of Accounts for electronic transmission of funds. The instructions and forms are located at the following web address:

[http://www.doa.virginia.gov/General\\_Accounting/EDI/EDI\\_Main.cfm](http://www.doa.virginia.gov/General_Accounting/EDI/EDI_Main.cfm)

3. Completion of the Activity – To complete or close out the activity in the HUD accounting system submit the following completed forms and documents to DHCD:
  - a. Copy of the **updated** Set up/Completion Form (APPENDIX D)
  - b. HUD 1 Form – A copy that has been executed by the seller and settlement agent is required
  - c. Recorded Restricted Deed of Covenant (APPENDIX B)
  - d. Promissory Note (APPENDIX G)
  - e. Copy of the Appraisal
  - f. URA Voluntary Sales Notice (APPENDIX J)
  - g. Virginia Housing Property Standards (APPENDIX C)
  - h. Maximum Subsidy Limit Worksheet (APPENDIX L)
  - i. Disbursement Request Form for any final program administrative costs that are due to the administrator
  - j. Homebuyer Federal Grant Certification Form

- k. Administrator must provide written documentation of providing homeownership counseling to the purchaser
- l. Administrator must provide receipt of payment for any lead-based paint inspections that are paid and/or conducted on the behalf of the purchaser by the administrator. A lead inspection report must also be submitted
- m. Copy of Flood Hazard Determination Form (from mortgage lender)

#### VIII. PROGRAM ADMINISTRATIVE COSTS SCHEDULE:

Administrators may collect program administrative costs, for administering these HOME program funds as follows:

**Project Funding** - there will be a total allowable Program Administrative Cost of **\$1,500** for each completed activity billable to the HOME program. The breakdown is as follows:

- An administrator must submit all of the required documents on the document checklist along with a completed HUD set-up/completion form to have funds reserved for a purchaser.
- DHCD will release **\$1,500.00** when an administrator submits a completed HUD Completion Report, accurate closeout documentation, and a recorded Restrictive Deed of Covenant are received.
- The anticipated program administrative costs must show on the HUD Set-up/Completion form
- Program Administrative Costs must be requested on the appropriate disbursement form.
- Copies of a counseling certificate and proof that the Administrator is not receiving HUD funds for homeownership counseling must be submitted to receive an additional counseling fee of **\$300**.
- The federal regulations require Lead Inspections for homes built prior to 1978. The Administrator can receive up to **\$250** for Lead Inspections by submitting a copy of a paid receipt and a copy of the report to DHCD along with the completed HUD homeownership completion form.