

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
**COMMUNITY DEVELOPMENT DIVISION**

**Subject: SUBSIDY LIMITS AND LIEN REQUIREMENTS**

**Effective Date: September 1, 2015 (revised 10/15/15)**

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This policy defines the subsidy limits, lien requirements and miscellaneous provisions for MSHDA's Community Development Division (CDD) Homebuyer, Homeowner and Rental Rehabilitation Programs.

## **SUBSIDY LIMITS**

### **Minimum Limit**

Minimum financial assistance limits apply only to HOME-funded projects. HOME regulations require a minimum HOME investment of \$1,000. Projects funded through other sources have no minimum investment limit.

### **Maximum Limits**

#### **Homebuyer**

Acquisition Development and Resale (ADR): CDD can finance the full amount of development costs up to the HOME Maximum Per Unit Subsidy limit. CDD's HOME maximum net subsidy is \$75,000, inclusive of costs associated with acquisition, construction or rehabilitation, lead-based paint hazard reduction or abatement, homebuyer assistance and eligible developer fee. Net subsidy is the activity setup amount minus the Program Income returned to MSHDA at resale.

NSP-funded ADR projects have no cost or subsidy limits, however grantees are required to make sure costs are reasonable and projects are feasible.

Homebuyer Purchase with Rehabilitation (HPR): The HPR program has a \$40,000 maximum CDD HOME investment inclusive of rehabilitation costs, lead-based paint hazard reduction or abatement costs, down payment assistance and closing costs, and eligible developer fee.

#### **Homeowner Rehabilitation or Replacement Housing**

The maximum CDD homeowner rehabilitation or replacement housing assistance is \$40,000, inclusive of hard costs, lead-based paint hazard reduction or abatement costs, eligible soft costs and activity/project delivery costs specifically attributable to the project. See Administrative and Project Costs Chart for eligible soft costs and activity/project delivery costs and their allowable percentages.

#### **Rental Rehabilitation**

HOME-Assisted: The minimum CDD HOME assistance is \$1,000 per unit. The maximum CDD HOME assistance is \$14,999 per unit for existing units (occupied as legal residences within the past 5 years), and \$40,000 for the creation of new units (converting office/commercial/storage space into residential units).

CDBG Assisted: The maximum CDD CDBG assistance is \$25,000 per unit for existing units (occupied as legal residences within the past 5 years), and \$40,000 for the creation of new units (converting office/commercial/storage space into residential units).

CDD's HOME and CDBG Rental Rehabilitation assistance covers hard costs, lead-based paint hazard reduction or abatement costs, eligible soft costs and activity/project delivery costs specifically attributable to the project. See Administrative and Project Costs policy and Attachment A for eligible soft costs and allowable percentage.

**LIEN REQUIREMENTS**

**Homebuyer**

Homebuyer subsidy/assistance is calculated as the property's sale price (current market value) plus the buyer's closing costs, prepaid escrows, and net tax proration minus the buyer's first mortgage and cash investment in/at the closing.

The minimum homebuyer assistance is \$1,000. The maximum homebuyer assistance for CDD HOME-funded Acquisition-Development-Resale (ADR) projects is \$30,000. There is no maximum homebuyer assistance for NSP-funded ADR projects. For CDD HOME-funded Homebuyer Purchase Rehabilitation (HPR) projects, there is no maximum homebuyer assistance, however, the down payment assistance (DPA) maximum is \$10,000.

The homebuyer assistance loan will be secured by a lien which is forgiven over a period of 5, 10, or 15 years depending on the amount of assistance provided (see HUD's HOME affordability period terms below). When the buyer no longer occupies the home as their primary residence the loan repayment will be pro-rated, or forgiven if more than 5, 10, or 15 years have passed.

The affordability period length is based on the amount of HOME assistance provided to the buyer(s).

<b>Source</b>	<b>Homebuyer Program Affordability Period</b>
CDBG HRF	Initial occupancy
HOME NSP	Based on the subsidy amount of the Homebuyer Mortgage Note. \$14,999 and under = 5 years 15,000 to \$40,000 = 10 years \$40,001 and over = 15 years

Homebuyer projects with development subsidy have a gap between the cost to develop the housing and the as complete market value. CDD HOME-funds in the form of a development subsidy are not be subject to a lien and are immediately forgiven.

**Homeowner**

If CDD's federal assistance in a project is equal to or less than \$2,500, no lien is required. If CDD's federal assistance exceeds \$2,500, a lien on the property is required. However, costs up to \$5,000 specifically attributable to lead-based paint hazard reduction or abatement and any activity/project delivery costs charged to the project may be excluded from the lien.

Repayment of CDD's homeowner assistance is required upon sale or transfer of the property to a new owner or if the property is no longer occupied by the borrower. Repayment is ensured through a mortgage note and recorded mortgage (lien) on the property. There is no affordability period.

<b>Source</b>	<b>Homeowner Program Affordability Period</b>
CDBG HRF HOME NSP	Not applicable

The Application will identify the mortgage options between the homeowner and MSHDA.

MSHDA's mortgage must be signed by every person AND their spouse (if applicable) listed on the warranty deed, quit claim deed or title. MSHDA's mortgage note must be signed by the applicant(s) (can be husband and wife, OR husband, OR wife).

**Rental Rehabilitation**

The affordability period is based on the funding source and amount provided to the owner(s).

Source	Rental Program Affordability Period
CDBG HRF	Initial occupancy
HOME NSP	Based on the amount of assistance per unit. \$14,999 and under = 5 years 15,000 to \$40,000 = 10 years \$40,001 and over = 15 years New Construction = 20 years

HOME-assisted: During the affordability period the property must be maintained to Uniform Property Conditions Standards and local property maintenance code requirements, utilized for residential rental use and fairly marketed to the general public. Property owners may not live in a federally assisted unit until after the affordability period ends.

All rehabilitation costs including lead-based paint hazard reduction or abatement costs and landscaping must be included in the mortgage note and recorded mortgage (lien). Additionally, soft costs charged to the project must be included in the lien and counted when calculating the affordability period length. See Administrative and Project Costs Chart for eligible soft costs and allowable percentage.

Affordability period requirements remain in effect for the entire lien term regardless of HOME-assistance repayment for noncompliance.

CDBG-assisted: There is an initial occupancy affordability period requiring an executed one-year lease. Rents cannot exceed an annual 10% increase and/or program rent limits. The property must be maintained to Uniform Property Conditions Standards and local property maintenance code requirements as well as any local rental code provisions. The property must be utilized for residential rental use and fairly marketed to the general public. Property owners may not live in a federally assisted unit until after the initial tenant's one year occupancy requirement has been met.

In the event of sale, should a new owner agree to comply with all CDD's CDBG assistance requirements, terms and conditions for the remainder of the affordability period and lien term, repayment of the CDBG assistance would not be required. Otherwise, repayment would be required.

**MISCELLANEOUS PROVISIONS**

**Land Contracts for Homeowner Rehabilitation**

An enforceable lien would require the signatures of all parties with a legal interest in the property. The CDBG/HOME applicant(s) and all Land Contract holder(s) in the chain of title must sign MSHDA's mortgage. Only the borrower(s) would sign MSHDA's mortgage note.

An alternative to the Land Contract seller(s) signing MSHDA's mortgage would be for them to sign a Land Contract Subordination Agreement (**Attachment A**). This document would be recorded and would give the grantee a superior lien position to the Land Contract seller(s).

### **Life Estates for Homeowner Rehabilitation**

Person(s) occupying a dwelling with a Life Estate are eligible for homeowner rehabilitation assistance under the following conditions:

- The Life Tenant(s) occupying the dwelling to receive rehabilitation must be income eligible.
- The Life Estate terms must be written, signed, recorded and a copy provided to grantee.
- The holders of the remainder interest in the dwelling (Remaindermen) must agree, in writing, prior to the initiation of the rehabilitation to repay the loan when the dwelling ceases to be the principal residence of the current Life Tenant(s). See Life Estate Responsibility form (**Attachment B**).
- Both the Life Tenant(s) and the Remaindermen must sign MSHDA's mortgage and mortgage note.
- The Life Tenant(s) and Remaindermen must sign a Homeowner Certification. See Underwriting for Homeowner Projects Policy Bulletin, Attachment A.

### **SUBORDINATIONS**

**Liens Held with MSHDA.** For liens held in MSHDA's name, subordinations will only be considered for better rate and/or term with no cash back or debt consolidation. MSHDA will not subordinate to reverse mortgages. MSHDA will allow reverse mortgages if our lien is paid off or MSHDA is in first lien position.

### **Liens Held Locally**

#### **Subordination for Refinancing**

For FY-2015 and prior, if subordination is allowed locally and set forth in written program guidelines, CDD allows refinancing of existing mortgage debt for rate and/or term improvement. MSHDA approval is not required as no new debt is being incurred. Requests for subordinations require grantee to review the Good Faith Estimate, title insurance, payoff letter, interest rate and terms of new mortgage, etc. in conjunction with grantee's subordination policy and reasonable closing costs. Contact MSHDA CDD Mortgage Servicer with questions.

### Subordination for New Debt Being Incurred

Subordination of a lien where new debt is being incurred will be allowed by MSHDA only for CDD funded homeowner rehabilitation projects, and only if the following criteria are met. The local plan for subordination of liens can be more restrictive; however, it must be submitted to the MSHDA CDD Mortgage Servicer for approval.

1. A local policy and review process must be established to approve subordination requests. This policy and process must be approved by the grantee's legal counsel.
2. Eligible and ineligible purposes for subordination must be outlined in the grantee's local policy.
3. The local policy must be approved by MSHDA prior to policy implementation.
4. A copy of each lien subordination approval letter must be kept in the project file and available for MSHDA review.
5. The total amount of all liens against the property, including the lien resulting from CDD funding, cannot exceed 80% of the property's value based on a current appraisal.
6. The household must have income at or below 80% AMI.
7. A minimum of one year must have passed since the CDD assistance was received.
8. The new loan interest rate and associated loan costs must be competitive with the lowest rates and costs currently available in the lending industry. A worksheet evaluating current loan rates and costs must be part of the approval process.
9. The proceeds of the loan the grantee is subordinating to must be disbursed by the lender for the approved purposes of the loan. Grantee must keep copies of disbursement checks in project file.

### **LIEN TRANSFERABILITY**

All mortgage servicing questions and approvals should be directed to CDD's Mortgage Servicer.

### **LIEN WORKOUTS**

**Liens Held with MSHDA.** Mortgage servicing will be handled by CD mortgage servicing staff. Questions regarding death of homeowner, refinancing, subordination, assumption, hardship, forgiveness should be directed to CDD Mortgage Servicer.

**Liens Held Locally.** Mortgage servicing for CDBG mortgages between homeowner and grantee, where grantee will retain and reuse program income, grantee will be responsible for making determinations and must have guidance included in their program guidelines. Questions or special situations should be directed to CDD Mortgage Servicer.

All liens must be recorded at the applicable Register of Deeds office.

If you have questions, contact your CD Specialist at 517-373-1974.

### **Attachments**

- A. Land Contract Subordination Agreement
- B. Life Estate Responsibility form