

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
HOUSING INITIATIVES DIVISION

Subject: SUBSIDY LIMITS AND LIEN REQUIREMENTS

Effective Date: September 20, 2016

This policy defines the subsidy limits, lien requirements and miscellaneous provisions for MSHDA's Housing Initiatives Division (HID) Homebuyer and Homeowner 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): HID can finance the full amount of development costs up to the HOME Maximum Per Unit Subsidy limit. HID'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 HID 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 HID 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.

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 HID HOME-funded Acquisition-Development-Resale (ADR) projects is \$30,000. There is no maximum homebuyer assistance for NSP-funded ADR projects. For HID 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).

| Source | Homebuyer Program Affordability Period |
|-------------|--|
| 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. HID HOME-funds in the form of a development subsidy are not be subject to a lien and are immediately forgiven.

Homeowner

If HID's federal assistance in a project is equal to or less than \$2,500, no lien is required. If HID'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 HID'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.

| Source | Homeowner Program Affordability Period |
|--------------------|--|
| 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).

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 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, HID 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 HID 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 HID 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 HID 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 HID 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 HID 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 HID's Mortgage Servicer.

LIEN WORKOUTS

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

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

If you have questions, contact your HID Specialist.

Attachments

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