

Section 8 Homeownership Option - Summary of Final Rule

Prepared by Citizens' Housing and Planning Association

On September 12, 2000, HUD issued a final rule on the Section 8 Homeownership program based on statutory changes enacted as part of the Quality Housing and Work Responsibility Act (QHWRA) in late 1998. The final rule makes a number of changes to the proposed rule issued in April 1999 and also revises existing rules governing using tenant-based assistance in cooperatives. Key provisions are summarized below.

Rule Effective Date	October 12, 2000
Program Optional	It is up to PHAs to decide if they wish to offer a homeownership program. If they choose to offer one, they can choose to limit its size (number of families' served) and restrict eligibility by adding their own requirements on top of those required by HUD. A PHA not offering a homeownership program does not have to offer it as a reasonable accommodation (see page 6 of this summary). PHAs cannot reserve a specific number of slots or a specific funding level nor establish special waiting lists for homeownership.
Funding [§982.601(c)]	No special funding is provided for homeownership assistance payments and related tasks - PHAs must use existing/new increments of tenant-based assistance.
PHA Capacity [§982.625(d)]	A PHA wishing to offer a homeownership program must show that it has the capacity to operate one. This requirement is met automatically if the PHA adopts either (1) HUD downpayment requirements (at least 3% down, including at least 1% of family's own funds). (2) HUD financing requirements, OR (3) must demonstrate its capacity.. in the PHA Annual Plan", for example by partnering with a nonprofit experienced in first-time homebuyer programs or hiring staff with such experience.
PHA Program Design Flexibility	<i>The final rule sets basic program parameters but gives PHAs significant freedom in designing their programs.</i> It is up to PHAs to decide whether to limit eligibility to certain populations, how long to let households search for a home and whether to provide rental vouchers to families who fail in effort to purchase home; whether to adopt downpayment and mortgage term requirements, and whether to monitor mortgage status and housing quality post-purchase.
Program Overview	
	<p>The program allows the monthly section 8 payment to be used to cover mortgage and other homeownership costs. The monthly payment can be made to the lender or the family. It is open to current and new S8 participants who meet HUD and PHA eligibility standards. If a family chooses to participate, it must locate a home, obtain financing and close the sale within any deadlines the PHA establishes and must complete a free homeownership counseling program before sale closes. PHAs can choose to provide post-purchase counseling.</p> <p>HUD generally requires that participants be first time homeowners (not owned a home in the prior 3 years), have family incomes of at least \$10,300 excluding welfare, and include at least one adult who has worked full-time (30 hours or more) for the prior year. Some exceptions apply for elderly and disabled families. PHAs can set additional eligibility requirements (e.g. limit to families participating in FSS).</p> <p>PHAs may reject units with serious physical problems and may reject proposed financing they feel family can not afford it or terms do not meet PHA standards. The S8 assistance can be used with other subsidized financing, including CDBG programs. Except for elderly and disabled households, the maximum time a family can receive homeownership assistance is 15 years (for homes with a mortgage term of 20 years or more) or 10 years (for shorter mortgages). Families who sell or refinance their home in the first 10 years of ownership may be subject to recapture provisions.</p>
Eligibility Requirements for Families	

¹HUD uses family to refer to any person or group of persons approved to reside in unit by PHA

HUD Requirements [§982.627]	The program is open both to current and new participants who meet the following HUD requirements for the homeownership program prior to the commencement of homeownership assistance. PHAs can adopt further eligibility criteria as well. All homeownership families must also meet the standard S8 eligibility requirements.
First Time Homeowner [§982.627(b)]	Generally, the family <i>must be</i> <ul style="list-style-type: none"> • a <i>first-time homeowner</i> (no member of the assisted family can have owned a home or shares in a coop in the 3 years prior to the start of homeownership assistance). <i>The restriction on prior ownership does not apply to a single parent or displaced homemaker who owned a home with spouse while married or to families who already own shares in a cooperative</i> • OR a family with a member with disabilities for whom the homeownership option is a reasonable accommodation
Minimum Income [§982.627(c)]	Both the family, <u>and</u> the adult members who will own the home, must have annual incomes equal to the Federal minimum hourly wage multiplied by 2000 hours (<u>currently \$10,300 a year</u>). <i>Welfare assistance does not count toward meeting this minimum except for elderly or disabled households, .</i> <ul style="list-style-type: none"> • This only applies when the family first begins receiving assistance under the homeownership program. Families are not required to continue to meet it.
Full Time Employment Requirement [§982.627(d)]	At the time homeownership assistance begins, one or more adult members of the family must have been continuously employed full-time (at least 30 hours a week on average) during the prior year. It is up to the PHA to determine whether and to what extent interruptions to employment in the prior year break the continuity of employment. PHAs may treat self-employment or successive jobs as continuous. <ul style="list-style-type: none"> • <i>Exemption for elderly and disabled families</i> Families whose head or spouse is elderly or is disabled are exempt from the full-time employment requirement. • <i>Exemption as reasonable accommodation</i> PHAs must allow an exemption for this requirement for families with a person with disabilities if needed to make the homeownership program is readily usable by people with disabilities.
Pre-purchase Counseling [§982.626(c)]	Families must complete a homeownership counseling program provided free through the PHA (see PHA Counseling below)
No S8 homeownership default [§982.627(e)]	Families can not have previously defaulted on S8 Homeownership assistance
PHA Eligibility Requirements [§982.626(b)]	PHAs cannot establish a different minimum income or full-time employment requirements than HUD. However, PHAs can add other eligibility requirements (e.g. participation in FSS, downpayment standards, use rental assistance for one year first) and can also limit the number of households using homeownership assistance. PHA requirements must be described in the PHA Plan.
PHA Briefings and Homeownership Counseling	
Tenant Briefings	PHAs offering a homeownership option must discuss it at all briefing sessions and that discussion must include discussion of geographic choice, portability and benefits of moving to low-poverty areas.
Homeownership Counseling [§982.630]	Prior to beginning homeownership assistance, family must have completed homeownership counseling sessions. PHA staff can provide the counseling itself or arrange for counseling to be provided by a HUD-approved housing counseling agency or other entity with a program consistent with HUD's Housing Counseling program. Any fees for counseling must be paid by PHA, not family.

	Search Time/ Options for Households Unable to Buy Home
Search time [§982.629]	The rules does not set minimum/maximum search time guidelines but allows PHAs to establish a maximum time for families to locate unit, obtain financing and buy unit. PHAs can also require families to report periodically on the progress of their search.
Households unable to locate/buy home [§982.629]	It is up to the PHA to establish a policy on whether they will issue rental vouchers to families unable to purchase a home within the maximum time established by the PHA. The PHA may issue the family a voucher or place them on the waiting list.
	Eligible Units/ Inspection Requirements
Housing Types [§982.628]	S8 homeownership assistance can be used for new construction or existing units. <ul style="list-style-type: none"> • Can only be used for single-unit home, condo or coop (i.e. cannot be used for purchase of a 2-family home). • Can be used to purchase PHA-owned units
Pre-Purchase Inspections [§982.631]	At least two pre-purchase inspections are required <ul style="list-style-type: none"> • <i>PHA Inspection</i> the unit must pass a PHA HQS inspection • <i>Independent Inspection</i> The family must pay for inspection by an independent inspector they have selected. (The independent inspector cannot be a PHA employee or contract and PHA cannot require family to use a specific inspector. However, PHA can set standards for qualified inspectors.) The independent inspection must cover major building systems and components (e.g. roof, foundation) and inspector must send report to PHA and family. PHA must review inspection report and decide with family whether to require any pre-purchase repairs. PHAs can disapprove unit based on information in the inspection report.
Post-Purchase Inspections	PHAs are not required to make annual inspections after purchase but can adopt a policy of periodic inspections if they wish.
Debarred Sellers [§982.628]	Unit can not receive assistance if PHA knows seller is debarred, suspended or subject to a limited denial of participation.
	Contract of Sale/Buyer Protections
Contract of Sale [§982.631(c)]	Except for families that already own coop units, families must enter a contract of sale. The contract must specify price and other terms of sale, provide that family is not obligated to purchase unless satisfied with inspection report and is not obligated to pay for any necessary repairs, and include seller certification that he/she is not debarred etc.
	Financing
HUD Standards [§982.625(d)] PHA Standards [§982.632(a),(b) (c)]	Families must secure own financing. <ul style="list-style-type: none"> • PHAs can adopt HUD financing standards (require that financing be provided, insured or guaranteed by the state or federal government or comply with secondary market or generally accepted private underwriting standards) or their own. • PHA can set own requirements regarding underwriting except that FHA-insured mortgages must meet FHA underwriting standards. • <i>PHAs can set additional requirements regarding financing and affordability</i> including lender qualifications (e.g. could prohibit or require approval of seller financing) and financing terms (e.g. could prohibit balloon mortgages). • PHAs can disapprove proposed financing based on terms or determination that family cannot afford it. All requirements/ policies must be described in the PHA administrative plan.
Downpayment [§982.625(d)]	PHAs can use HUD downpayment standards (minimum 3% down including at least 1% of family's own resources) or can adopt their own standards.
Use of other subsidized financing assistance	There is no prohibition on using state, local or other subsidized financing, including CDBG, in combination with S8 homeownership assistance.
	Amount of S8 Assistance
Homeownership Assistance Amount [§982.635(a), (d)]	Assistance will be the difference between the Payment standard (or Monthly Homeownership Expenses if less) and 30% of the family's monthly adjusted income (or 10% of gross or welfare allowance if higher). Payments may be made to homeowner or, at discretion of PHA, to lender.

Homeownership Expenses [§982.635(c)]	<p>PHAs determine the Monthly Homeownership Expense for a family. It is the sum of:</p> <ul style="list-style-type: none"> • principal and interest payments on the mortgage (original mortgage, any refinancing) plus mortgage insurance premiums • cost of debt incurred to finance work to make a unit accessible for a family member with disabilities <i>if needed as a reasonable accommodation</i> • utility allowance (using the same schedule as for the rental voucher program) • PHA allowance for maintenance expenses • PHA allowance for major repairs and replacements • For condominiums and cooperatives, may include cooperative or condo operating charges or maintenance fees <p>The allowances for maintenance expenses and repairs and replacements are NOT to be based on the condition of the specific home but to be general amounts. HUD advises that PHAs consult with housing counseling agencies, local realtors and others for advice. PHAs are not allowed to require households to put these maintenance and repair allowances into escrow.</p>
Payment standard [§982.635(b)]	PHAs must use the same payment standards, subsidy standards and utility allowance for the homeownership program as for the regular program. If the home is in an area where the PHA uses an exception payment standard, the exception standard applies. The payment standard is based on the lower of the family unit size and the home size.
Annual Re-certification [§982.625(b)]	PHA must reexamine family income and composition annually and adjust the homeownership assistance amount accordingly. The payment standard will be adjusted at annual re-certification of family income and composition but can never be lower than that used at the start of the homeownership assistance for the home.
Exclusion of home value in determining annual eligibility	In determining annual income, the value of a home purchased with S8 homeownership aid is excluded for the first 10 years after the purchase date. [5 CFR 5.603(b)]
Maximum term of assistance [§982.634]	<p>Families can receive homeownership assistance for a maximum of 15 years if using a mortgage with a term of 20 years or more; otherwise 10 years. <i>PHAs cannot adopt alternative maximum terms.</i> If family owns a unit with homeownership assistance, sells it and buys a second unit with such assistance, the combined total time counts toward the limit.</p> <ul style="list-style-type: none"> • <i>Exception for elderly/disabled families:</i> The time limit does not apply to families that were elderly or disabled when they began using homeownership assistance nor does it apply if household head or spouse <i>becomes</i> disabled. • <i>Loss of elderly/disabled status:</i> If a family loses its elderly or disabled status, it becomes subject to the time limit that would have otherwise applied when first began receiving homeownership assistance, except that it is entitled to receive a minimum of 6 months HO assistance after change in status is determined.
Post-Purchase Requirements for Families	
Statement of Homeowner Obligations [§982.633]	Family must sign a statement of homeowner obligations before the start of homeownership assistance agreeing to comply with all obligations under the program.
Refinancing	Refinancing is permitted, subject to any requirements PHAs may choose to impose in connection with refinancing. Extra refinancing proceeds may be subject to recapture.
Other Post-Purchase Requirements [§982.633]	<ul style="list-style-type: none"> • <i>Primary residence</i> Ownership assistance can only be paid while family resides in the home and must end the month family leaves. Family must notify PHA prior to leaving. • No family member can have an ownership interest in any other residential property while family is receiving homeownership assistance • Family must provide any information required by the PHA or HUD regarding mortgage or other debt incurred for initial purchase, refinancing of such debt, family compliance with mortgage terms, sale or transfer of interest in home and family's homeownership expenses. • PHA can establish other requirements for continuance of assistance including requiring families to ongoing homeownership and housing counseling

<p>Defaults [§982.633 and 638(d)]</p>	<ul style="list-style-type: none"> • Family must notify PHA if it is in default on its mortgage and the PHA must terminate the homeownership assistance if family is dispossessed from home pursuant to a judgment or order of foreclosure. • It is generally up to the PHA whether to permit the family to move to a new unit with rental voucher assistance • No voucher assistance is permitted if family defaulted on an FHA-insured mortgage and failed to convey the title to HUD or to move out within time required by HUD.
	<p>Portability</p>
<p>Portability [§982.636]</p>	<p>If there is a receiving PHA administering a homeownership program and accepting new families, families can purchase homes outside the jurisdiction of the initial PHA (subject to any policy the initial PHA may have limiting portability for first 12 months for non-resident applicants under their tenant-based program).</p> <p>The same divisions of responsibility generally apply for homeownership as apply under regular assistance. The first PHA makes initial eligibility determination. The family must attend the briefing and counseling sessions required by the receiving PHA and the receiving PHA will determine whether unit condition and financing is acceptable. Receiving PHA must promptly notify initial PHA if the family purchases a home or is unable to purchase within the maximum time established by the PHA.</p>
	<p>Recapture of Homeownership Assistance</p>
<p>Recapture of Assistance [§982.640]</p>	<p>Homeowners are subject to recapture provisions if they sell their unit within 10 years of initially purchasing the unit. The PHA's right to recapture is secured by a lien on the property. The recapture amount is equal to the <i>lesser</i> of:</p> <ul style="list-style-type: none"> • the total Section 8 homeownership assistance provided to the family reduced by 10% for each full year the family owned the unit (e.g. if sell after owning <1 year, recapture is 100%, after 1.5 years, recapture is 90%, etc.) • the difference between the sales price and the purchase price, minus the costs of any capital improvements, the cost of selling the home and the amount of any proceeds being used to purchase a new home under the S8 homeownership option, and any amounts previously recaptured under this requirement. <p>Recapture is also required after refinancing and is the <i>lesser of</i></p> <ul style="list-style-type: none"> • the total Section 8 homeownership assistance reduced by 10% a year (as above) or • the difference between the old and new mortgage debt minus the cost of capital improvements, costs incurred in refinancing (e.g. closing costs) and any previous recaptures.
	<p>Special Provisions for Cooperatives</p>
<p>Two types of assistance [§982.619]</p>	<p>Families that already own shares in a coop can receive S8 assistance through the regular rental option (using HAP between Cooperative Association and PHA) or the homeownership option if they meet all homeownership requirements.</p>
<p>HQS/Responsibility for Maintenance [§982.619]</p>	<p><i>For coop units assisted with regular rental assistance (rather than homeownership),</i> HUD has revised its rules to make unit owner responsible for HQS violations due to family's failure to maintain unit in accordance with their occupancy agreement with the coop association. (Under old rule, the coop association was responsible for all HQS violations). However, if breaches not rectified, PHA can abate, reduce or terminate payments to association irregardless of who is at fault. If the violation is the fault of the family, the PHA must act to enforce family obligation and may terminate assistance for violations.</p>
<p>Long term affordability Nonprofit ownership</p>	<p>The new rule <i>removes</i> the prior requirements that</p> <ul style="list-style-type: none"> • limited S8 use to nonprofit-owned cooperatives and • required cooperatives to maintain continued affordability to lower income families after transfer of a member's interest.
	<p>Other Provisions</p>

Lease-purchase agreements [§982.317]	Families that currently receive S8 rental assistance can enter a lease-purchase agreement. Prior to closing the sale, they receive conventional rental assistance and the S8 payment cannot be used to cover the "homeownership premium" (the portion of the payment used to accumulate a downpayment or reduce the purchase price). Instead, the family must use its own funds for the premium. The PHA must exclude the homeownership premium in determining rent reasonableness.
Move with continued homeownership or rental assistance [§982.637]	A family receiving homeownership assistance can move to a new unit with rental <i>or</i> with homeownership assistance, as long as it is in compliance with program requirements, no family member has any ownership interest in the prior unit, and the PHA has sufficient funds. To move with continued homeownership assistance, families must again meet eligibility requirements but are not required to take homeowner counseling again unless PHA requires additional counseling.
Reasonable Accommodation	HUD says PHAs must make accommodation decisions case by case and in cases where the PHA has otherwise opted not to implement a homeownership program, the PHA "may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation." [Federal Register, September 12, 2000, page 55145]
HUD Monitoring	HUD intends to develop performance-based standards for the homeownership program to monitor PHA programs and determine if excessive mortgage default rates occur. [Federal Register, September 12, 2000, page 55160]
	Information that must be included in PHA Administrative Plan
	PHAs with homeownership programs must include a description of their policies with regard to the following items in the PHA Administrative Plan: <ul style="list-style-type: none"> • any eligibility requirements they impose above HUD's requirements • maximum time they allow participants for locating/purchasing a home • their policy with regard to issuing a voucher if family does not locate/purchase a home • any minimum downpayment or equity requirements • any requirements regarding financing, including any qualifications they require of lenders, terms of financing and affordability • policy for determining allowable homeownership expenses • policy regarding whether S8 homeownership assistance is paid to family or lender • any policies that prohibit more than one move by the family during any one year period