
 * INSTRUCTIONS TO MORTGAGEE *
 * ALL LANGUAGE IS MANDATORY--NO CHANGES PERMITTED *

NOTICE TO BUYER

THIS SECTION 235 MORTGAGE MAY BE SUBJECT TO RECAPTURE

IT IS MOST IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY

You have applied for an FHA-insured mortgage under the Section 235 Recapture Program. The law governing the mortgage for which you are making application provides the following conditions:

1. Under this program the Department of Housing and Urban Development (HUD) will pay a portion of your monthly mortgage payment. Your eligibility and the size of HUD's portion of the payment depend upon your family income, occupancy of the property and other factors.

a. Under the 30-year program, you must pay at least 20 percent of your adjusted monthly income towards your monthly mortgage payment.

b. Under the 10-year program, you must pay at least 28 percent of your adjusted monthly income towards your monthly mortgage payment. When your assistance stops after the 10-year period, even if you still need assistance with your mortgage payments beyond that period, the Department cannot assure you that it will be able to continue assisting you with your monthly mortgage payment by extending the assistance payments contract. There may not be any funds; but if funds are available, you will have to prove that you have a hardship (not able to make the full payment) to continue receiving assistance. You will have to make your full monthly mortgage payment when HUD's assistance is discontinued.

2. You will be required to execute a note and second mortgage (or deed of trust) with addendum at settlement of the

and Urban Development to assure repayment of the assistance.

3.You will be required to recertify annually by submitting to your lender every year information on your family income and the number of persons in your family. Anytime your monthly household income rises by \$50.00 or more, or if you vacate, rent or sell your property, you must notify your lender immediately.

4.HUD will demand the immediate repayment of the full amount of recapture due the Department when any one of the following events occurs:

a.Sale of property (new mortgage).

b.Sale of property (assumption of mortgage) to an assumptor who is not eligible for Section 235 assistance or to an assumptor who is eligible for Section 235 assistance but chooses not to accept it.

c.Rental of property (or, in the case of a property with more than one unit, the owner's unit is rented) for more than one year.

d.Request from the mortgagor, or on behalf of the mortgagor, to satisfy HUD's lien, i.e., refinancing the first mortgage.

5.In the event this mortgage is assumed, HUD will demand payment of the recapture amount from the mortgagor who is in possession of the property at the time an event occurs that activates the Recapture Provision.

NOTE:Assumptors should be aware that the recapture amount due HUD will be calculated based on the assistance paid on behalf of the original mortgagor as well as that amount paid on behalf of all previous assumptors of the mortgage.

6.The amount of assistance to be recaptured by HUD shall be the lesser of a. and b. below:

9/94

Page 2 of 5

4330.1 REV-5

APPENDIX 44

a.The amount of assistance actually paid to the mortgagee on behalf of the original mortgagor and any assumptors of the mortgage; or

b.Fifty percent (.50) of the net appreciation of a property.

NOTE:Net appreciation of a property is any increase in the value of that property over the original

purchase price, minus the reasonable costs of sale, the cost of refinancing the first mortgage, or the cost of the appraisal when paying off the first mortgage without sale of a property (should the mortgagor request satisfaction of the HUD lien), and minus the reasonable costs of improvements made to the property.

In order that you receive the greatest profit from the sale of your home, it is recommended that IMMEDIATELY AFTER YOU PURCHASE YOUR HOME, A SYSTEM SHOULD BE ESTABLISHED FOR KEEPING A RECORD OF THE COST OF (AND THE PAID RECEIPTS FOR) ANY CAPITAL IMPROVEMENTS THAT ARE MADE TO YOUR HOME AND PROPERTY. Costs for home improvements allowed by HUD, as well as certain costs related to the sale of the property, may be claimed against the appreciation of your property.

Examples of costs for acceptable permanent home improvements (i.e., costs for paid labor, materials and rental equipment) include, but are not limited to, the following permanent improvements:

1.room additions and other permanent improvements, such as porches, decks, patios, garages, carports, swimming pools, etc.;

2.finishing off areas that were unfinished when the mortgage was insured, such as basements and attics, etc.;

3.built-in bookcases, cabinets, fireplaces, closets, etc.;

4.appliance additions (stoves, refrigerators, built-in dishwashers, built-in microwave ovens, clothes washers and

Page 3 of 59/94

4330.1 REV-5

APPENDIX 44

dryers, water heaters and attic and ceiling fans) which are conveyed to the buyer by the seller;

NOTE:Replacements of appliances, roofs, heating systems (unless replaced by a solar heating system), and carpeting are not allowed against the appreciation of a property.

5.addition of storm windows and doors, replacement windows, security systems, central air conditioning, solar heating systems;

6.permanent landscaping such as fencing, planting of trees, shrubbery and bushes, landscaping ties, retaining walls, etc.;

7.swimming pools (there are conditions for allowing them as improvements);

8. special assessments (HUD Field Office will handle on a case-by-case basis);

9. land as an improvement (HUD Field Office will handle on a case-by-case basis);

10. fees for building permits and required inspections.

The reverse side of this form should be used to record the improvements you do on your property. REMEMBER TO ATTACH THE PAID RECEIPTS, BILLS AND INVOICES TO THIS FORM. WITHOUT THESE DOCUMENTS THE COST OF YOUR IMPROVEMENTS WILL NOT BE ALLOWED AGAINST THE APPRECIATION OF YOUR PROPERTY.

NOTICE TO ASSUMPTORS

Should you assume the first mortgage on a property that has a Section 235 mortgage, it is recommended that you obtain, at settlement (a) a list of all the improvements (and the paid receipts) that were made to the property during the time the former owners had the mortgage; (b) a signed copy of each Settlement Statement (HUD-1) for each prior sale of the property. Those costs may be used to offset the appreciation of

9/94

Page 4 of 5

4330.1 REV-5

APPENDIX 44

the property when HUD calculates the amount of recapture due the Department to satisfy its lien on the property. However, you, as the last assumptor receiving assistance, must be in possession of the paid receipts and signed Settlement Statements in order to document the cost of assuming the mortgage each time it was assumed. Without these documents, those costs will not be allowed against the appreciation of the property.

REPAYING HUD

If you sell your home to someone who is not eligible for Section 235 assistance, rent your home for more than a year or wish to pay off your HUD lien, you will have to repay HUD for assisting you with your monthly mortgage payments. We call this requirement to repay the assistance "recapture of assistance". It is required by law. You will have to repay either the amount HUD paid on your behalf or one-half of the net appreciation (increase in value of your property), whichever is less. You can deduct from the value of your home the reasonable costs of selling it; refinancing the first mortgage; paying off the first mortgage without sale of property; and/or paying off the second mortgage or second deed of trust. You can also deduct the reasonable costs of major improvements to your home. To get credit for the costs of improvements, you must save your paid bills and

payment receipts and have them available to submit to HUD for calculating the recapture amount due HUD.

Receipt of this form is herein acknowledged:

(Mortgagor)

(Mortgagor)

(Date)