

## APPENDIX 1 TO AP-90

### Snohomish County HOME Homebuyer Program Guidelines for Recapture June 5, 2020

#### I. Recapture Provisions

Recapture provisions apply to the use of HOME funds for homebuyer assistance programs. Snohomish County will allow for the use of recapture provisions, as appropriate.

HOME funds are limited to gap financing. Subsidy layering and/or underwriting must demonstrate that there are no more HOME funds invested, alone or in combination with other funds, than are necessary to provide quality, affordable, and financially viable housing for at least the duration of the affordability period. The Maximum HOME subsidy per household may not exceed \$50,000.

To be considered an eligible property, the homes acquired must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area. HUD establishes the median purchase price limits and these limits can be found on their website: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>. The County will provide current and updated limits.

Homebuyers assisted with HOME funds must qualify as low-and moderate-income at the time of purchase.

Recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. These provisions are imposed for the duration of the period of affordability on all HOME-assisted homebuyer projects through a written agreement with the homebuyer, and are enforced via lien, deed restrictions, or covenants running with the land.

Under recapture, the period of affordability is based on the direct HOME subsidy that enabled the homebuyer to purchase the unit. The recapture period of affordability is outlined in the following table:

Homeownership assistance HOME amount per-unit	Minimum Period of Affordability in years
Under \$15,000	5 years
\$15,000 to \$40,000	10 Years
Over \$40,000	15 Years

The County must be notified of any possible foreclosures or transfers in lieu of foreclosure during the period of affordability to ensure that recapture provisions are followed. The County will recoup any net proceeds from available funds due to foreclosure.

Applicants for HOME funding will need to propose recapture provisions at the time of application for funding and demonstrate how the provisions are consistent with the recapture guidelines.

**II. Recapture Guidelines as referenced in 24 CFR 92.254 (5)(ii).**

Recapture provisions will be used when the home, purchased using HOME funds as financial assistance that reduces the purchase price for the homebuyer, or as gap financing, is no longer the homebuyer’s principal residence during the period of affordability.

The County has selected the following options for recapture of funds under the HOME program:

- Recapture of the entire direct HOME subsidy;
- Reduction in the amount recaptured based on the amount of time during the period of affordability in which the buyer has occupied the home;
- Share of net proceeds (sales price minus loan repayments, other than the HOME loan, and closing costs).

**A. Recapture Entire Direct HOME Subsidy Method**

The **direct HOME subsidy** is the amount of HOME assistance, including any program income that enabled the homebuyer to buy the unit. The direct subsidy includes downpayment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer.

The County will be responsible for the enforcement of the recapture provisions and will require the subrecipient to obtain the recaptured funds from the homeowner. Recaptured funds must be used by the subrecipient for other eligible HOME activities or returned to the County. The subrecipient is responsible to monitor that the homeowners continue to use the home as their primary residence.

In the event of recapture, Snohomish County or subrecipient shall collect from net proceeds all HOME funds, including outstanding principal, plus interest, plus shared appreciation (as defined in Section II (C)). **Net proceeds** are defined as the sales price minus superior loan repayment (other than HOME funds) and any closing costs.

In the event that net proceeds are insufficient to repay the HOME funds, the amount to be recaptured shall be any funds remaining after payment of all superior non-HOME debt and closing costs that are subtracted from the sale price of the home. In no event shall the borrower be required to use funds other than net proceeds to repay the HOME Funds.

#### **B. Reduction During Affordability Period**

In the event that the homebuyer transfers the property either voluntarily or involuntarily during the period of affordability, the direct HOME subsidy will be reduced on a pro-rata basis for the time the homebuyer has owned and occupied the housing, measured against the required affordability period. The resulting ratio will be used to determine how much of the direct HOME subsidy would be recaptured. The pro-rata amount recaptured cannot exceed what is available from net proceeds. The formula is as follows:

$$\frac{\text{\# of Years Occupied}}{\text{Period of Affordability}} \times \text{Total Direct HOME Subsidy} = \text{Recapture Amount}$$

#### **C. Shared Net Proceeds (shared appreciation)**

If the net proceeds are not sufficient to recapture the entire HOME investment or a reduced amount as described above, plus enable the homebuyer to recover the amount of the downpayment and any investment in the form of capital improvements made by the homebuyer since purchase, the County or subrecipient may share the net proceeds:

1. To calculate the amount of net proceeds (or shared appreciation) to be returned:

Divide direct HOME subsidy by the sum of the direct HOME subsidy and the homebuyer's investment, multiply by the net proceeds to calculate the amount of HOME investment to be returned.

$$\frac{\text{Direct HOME Subsidy}}{\text{Direct HOME Subsidy} + \text{Homebuyer Investment}} \times \text{Net Proceeds} = \text{HOME Recapture}$$

2. To calculate the amount of net proceeds (or shared appreciation) available to the homebuyer:

Divide the homebuyer's investment by the sum of the direct HOME subsidy and the homebuyer's investment, multiply by the net proceeds to calculate the amount of homebuyer investment to return to the homebuyer:

$$\frac{\text{Homebuyer Investment}}{\text{Direct HOME Subsidy} + \text{Homebuyer Investment}} \times \text{Net Proceeds} = \text{Amount to Homebuyer}$$

### **III. Special Considerations for Single-Family Properties With More Than one Unit**

- A. If HOME funds are used to assist a HOME eligible homebuyer to acquire one unit in single family housing containing more than one unit, recapture affordability requirements listed on Page 1, apply only to the assisted unit.
- B. If the HOME funds are used to help a HOME eligible homebuyer purchase or acquire one or more rental units along with the homebuyer unit, the HOME rental affordability requirements at 24 CFR 92.252 apply to the rental units.
- C. HOME funds may be used to assist HOME eligible homebuyers through lease-purchase programs for existing housing and for housing to be constructed, but the homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed.
- D. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program and the housing is not transferred to the homebuyer within forty-two months after the project completion, the rental housing affordability requirements at 24 CFR 92.252 will apply.