

5123:1-1-03

Distribution of community assistance funds for the acquisition of housing.**(A) Purpose**

This rule sets forth a process to allow the department to make available community assistance funds to assist county boards of mental retardation and developmental disabilities (county boards) to acquire housing for individuals receiving supported living or individuals receiving supported living under a home and community-based services waiver.

(B) Definitions

- (1) "Appraisal" means a written report completed by a certified or licensed appraiser submitted on Fannie Mae form 1004 (6-93), "Uniform Residential Appraisal Report" or its successor, which includes but is not limited to, front and street scene photographs of the single-family home or duplex, three interior photographs, front photographs of all comparable sales, an interior floor plan sketch, a location map (indicating location of the single-family home or duplex and comparables), and a standard certification and statement of limiting conditions.
- (2) "Construction" means the act or process of assembling or building a one-story single-family home or a one-story duplex from raw materials upon a permanent base or foundation specifically designed for the one-story single-family home or one-story duplex. Construction includes contracting with a builder to construct a home or the purchase of a manufactured home from a manufacturer.
- (3) "Department" means the Ohio department of mental retardation and developmental disabilities as established by section 121.02 of the Revised Code.
- (4) "Duplex" means a separate or detached residence with two dwelling units designed and arranged for use by two families separated by a horizontal or vertical wall, each of which is heated independently of the other and has its own separate, private means of ingress and egress.
- (5) "Dwelling unit" means a single, self-contained unit providing independent living facilities for one or more individuals and which contains eating, living, sanitary, sleeping, and cooking facilities, all for the exclusive use by the occupants.
- (6) "Home and community-based services" (HCBS) has the same meaning as in section 5123.01 of the Revised Code.
- (7) "Housing" means a single-family home or duplex.

- (8) "Housing construction project" means department-approved construction projects that enable county boards to authorize a nonprofit corporation or local housing authority to contract for the construction of fully accessible, one-story single-family homes or duplexes.
- (9) "Individuals" mean persons with mental retardation or other developmental disability.
- (10) "Manufactured home" has the same meaning as in division (C) of section 4781.01 of the Revised Code.
- (11) "Mobile home" has the same meaning as in division (G) of section 4781.01 of the Revised Code.
- (12) "Mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation between the county board and the nonprofit corporation or a local housing authority memorialized in a mortgage deed and recorded in the county in which the subject real property is located.
- (13) "Newly constructed housing" means housing that has been for sale for more than six months since the completion of construction.
- (14) "Nonprofit corporation" means a nonprofit corporation incorporated pursuant to Chapter 1702. of the Revised Code, granted 501 (c)(3) status by the internal revenue service, and specifically chartered to develop, acquire, and manage permanent, affordable housing for individuals with mental retardation and other developmental disabilities.
- (15) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code.
- (16) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:
- (a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;
 - (b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;
 - (c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995; and

(e) The structure is not located in a manufactured home park as defined by section 3733.01 of the Revised Code.

(17) "Promissory note" means a written instrument that a county board enters into with a nonprofit corporation or local housing authority that evidences a promise to pay a monetary obligation, establishes a schedule for forgiveness of a monetary obligation through installments or otherwise, or a combination thereof, and which may be used to support a mortgage on real property.

(18) "Single-family home" means a residential building consisting of one dwelling unit and which is arranged, intended, or designed for one family. The term shall include a manufactured home and a condominium under Chapter 5311. of the Revised Code.

(19) "Supported living" has the same meaning as in section 5126.01 of the Revised Code.

(C) Use of community assistance funds

(1) The funds shall be used to acquire housing for individuals receiving supported living in accordance with sections 5126.40 to 5126.47 of the Revised Code or individuals receiving supported living under an HCBS waiver administered by the department.

(2) The housing shall be used as residences for at least one hundred eighty months.

(3) The funds shall be used to acquire a single-family home, a duplex, a permanently sited manufactured home, or newly constructed housing.

(4) The funds shall not be used to:

(a) Purchase furniture and household items other than those fixed items customarily included in a purchase agreement or a construction contract.

(b) Purchase mobile homes.

(c) Purchase housing when the purchase price exceeds, by more than ten percent, the housing's appraised value.

(5) The funds may be used to purchase a condominium.

(6) The funds may be used for housing construction projects.

(7) The funds shall be repaid if any provisions of this rule are violated. The repayment shall be calculated by multiplying the amount of funds provided under this rule by the ratio of one hundred eighty minus the number of months used for housing (as determined by the department) to the total term of one hundred eighty months:

$$\text{funds provided} \times [(180 - \text{number of months used for housing})/180] = \text{repayment}$$

(D) Application procedure

(1) Prior to purchasing housing or initiating a housing construction project, the county board shall submit a letter of intent and an application to the department in a form and manner prescribed by the department.

(2) For a housing construction project, the county board shall provide the following documents:

(a) An appraisal that is not more than six months old that appraises what the value of the real estate will be once the housing construction project is completed;

(b) A signed purchase contract showing the intent to purchase the vacant real estate, which shall include the purchase price, or if the real estate is already in the name of the nonprofit corporation, a copy of the current recorded deed;

(c) A signed construction contract for housing;

(d) A copy of the contract and the proposed mortgage between the county board and the nonprofit corporation;

(e) A "bid tabulation," which means a list in tabular form of all of a project's bidders' names, addresses, and dollar bid amount (with alternates as applicable) that are compiled, signed, and dated by the owner's representatives officiating at the bid-opening; and

(f) Any other documents specified by the department.

(3) The department shall notify the county board whether the application is approved or disapproved.

(4) Based on available funding, the department shall distribute community assistance funds to a county board utilizing a formula developed by the department. The department may participate at a percentage level of the cost of the housing.

(E) County board assurances

- (1) The county board shall enter into a contract with either a nonprofit corporation or a local housing authority. The contract and mortgage shall include the following terms:
 - (a) The use and ownership of housing if the contract is terminated;
 - (b) The use and ownership of housing if the nonprofit corporation or local housing authority is dissolved;
 - (c) The use and ownership of housing if the nonprofit corporation or local housing authority files for bankruptcy;
 - (d) A provision that upon dissolution of the nonprofit corporation or local housing authority, the county board or the department shall be a party to any judicial proceeding or dissolution agreement and that the county board or the department may be a distributee under such order or agreement based upon the amount of funds provided to the nonprofit corporation or local housing authority under this rule and to the extent provided by law; and
 - (e) A requirement that any proceeds from the sale of housing shall be used to acquire replacement housing.
- (2) The county board shall maintain a mortgage interest in the housing that at least equals the amount of community assistance funds used to purchase the housing. The term of the mortgage shall be for one hundred eighty months.
- (3) Only individuals receiving supported living in accordance with sections 5126.40 to 5126.47 of the Revised Code or receiving supported living under an HCBS waiver administered by the department shall live in the housing. A person who does not have mental retardation or a developmental disability may live in the housing if the department concludes:
 - (a) The other individuals living in the housing consent; and
 - (b) The housing remains primarily for the use of individuals with mental retardation or developmental disabilities.
- (4) The individuals who will be living in the housing shall take part in its selection. The individuals shall be given appropriate residential options and allowed to make reasonable and responsible choices among them.
- (5) Only one single-family home or duplex shall be located on a lot or parcel of land. Funds shall not be used to purchase housing on adjoining lots or parcels

if the department determines it would create the appearance of congregating individuals.

(6) Housing shall be kept in good order and condition by:

(a) Making all necessary or appropriate repairs and replacements;

(b) Complying with all laws, rules, insurance policies, and regulations;

(c) Obtaining and maintaining any governmental licenses and permits required for the use, maintenance, repair, and operation of the housing;

(d) Paying all costs, claims, damages, fees, and charges arising out of the possession, use, operation, or maintenance of the housing; and

(e) Remaining free of all liens, encumbrances, restrictions, and conditions which prevent or interfere with its use as residences for individuals.

(7) Before receiving the funds, the county board shall enter into a contract with the department.

(8) Within sixty calendar days of acquiring the housing, the county board shall provide the department with copies of the final closing statement, the promissory note, the recorded deed (with restrictions noted as necessary), and the recorded mortgage.

(F) Distribution of community assistance funds

(1) For purchased housing, the department shall issue a check for all or a portion of the funds awarded to a county board after receiving all of the documents listed below and after determining that all requirements of this rule have been met. The department may present the check at the closing.

(a) A completed application;

(b) An appraisal that is not more than six months old;

(c) A signed purchase contract showing the intent to purchase and the purchase price;

(d) A copy of the title insurance policy;

(e) The documents required in paragraphs (E)(1) and (E)(7) of this rule;

(f) If the housing is a condominium, a copy of the condominium description, deed restrictions, and home owners' association rules and by-laws; and

(g) Any other documents specified by the department.

(2) For a housing construction project, the department shall issue a check for all or a portion of the funds awarded to a county board after receiving all of the documents listed below and after determining that all requirements of this rule have been met:

(a) The documents required in paragraphs (E)(1) and (E)(7) of this rule;

(b) A copy of the mortgage;

(c) A copy of the title insurance policy;

(d) A copy of the occupancy permit which has been issued for the housing construction project, unless the local governmental jurisdiction does not issue such a permit; and

(e) Any other documents specified by the department.

(G) Acquisition of replacement housing

(1) To sell housing purchased under this rule and obtain replacement housing, the county board shall:

(a) Comply with sections 5123.37 to 5123.375 of the Revised Code;

(b) Provide the department with the appraisal that is not more than six months old, promissory note, mortgage, and recorded deed for the replacement housing; and

(c) Comply with all other requirements of this rule.

(2) The net sale proceeds shall equal the amount of funds owed to the department under the formula in paragraph (C)(7) of this rule.

(H) Failure to comply with this rule may result in the repayment of the funds awarded under this rule and/or the denial of future requests for funds.

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Certification

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