

types of documents to be used to secure that HUD's investment in a property ultimately serves program purposes. HUD received 12 public comments. This section of the preamble presents a summary of the significant issues raised by the public commenters on the NPRM, and HUD's responses to those comments.

*Comment:* Four commenters questioned or made comments regarding the interplay between other homeownership programs and the new section 32 program.

A. One commenter asked whether a portion of an existing 5(h) homeownership program can be converted to a section 32 program.

*HUD Response.* Proposed § 906.3(b) states that "A PHA may convert an existing homeownership program to a homeownership program under this part with HUD approval." HUD believes that nothing prohibits converting specified units or developments from an existing homeownership program to the section 32 program, so long as all HUD approval requirements are met, including resident consultation as provided in proposed § 906.39(e). This final rule makes a clarifying amendment to proposed § 906.3(b).

B. One commenter asked whether a PHA may operate two separate homeownership programs under the new rule.

*HUD Response.* Nothing in the statute or this rule purports to prohibit a PHA from operating separate homeownership programs. HUD does not believe any amendment to the NPRM is necessary as a result of this comment.

C. One commenter asked how existing homeownership programs (other than 5(h) or Turnkey III) previously approved by HUD but not yet achieving financial closing, are to be treated under the new rule.

*HUD Response.* This rule does not cover any other homeownership programs in any express or implied manner, but is limited to the requirements of the section 32 homeownership program. HUD does not believe any amendment to the NPRM is necessary as a result of this comment.

D. One commenter stated that PHAs that currently operate an existing HUD-approved homeownership program should not be required to obtain separate approval for operating a homeownership program under this rule.

*HUD Response.* Congress has explicitly mandated HUD approval, whether or not the PHA already has a homeownership program. See 42 U.S.C. 1437z-4(a), which states that "an agency may transfer a unit pursuant to

a homeownership program only if the program is authorized under this section and approved by the Secretary." Therefore, HUD has made no change as a result of this comment.

*Comment:* Four commenters questioned either the types of dwelling units that may be sold or the homeownership interest that may be conveyed.

A. One commenter stated that the types of permissible dwelling units defined in proposed § 906.5 should be revised to explicitly include newly constructed housing.

*HUD Response.* Proposed § 906.5 does not purport to specifically list the types of units that may be sold, but rather sets forth a definition applicable to all units that may be sold in the program. These are units that are either public housing or non-public housing units that have received or will be sold using 1937 Act funds. If a newly constructed unit meets one of these requirements and all other applicable requirements, the unit can be sold in the program. Therefore, no change is made in response to this comment.

B. Two commenters stated that the list of ownership interests that may be conveyed in proposed § 906.25 should be expanded to include leasehold interests and cooperative housing, and another commenter raised a question regarding whether a "shared appreciation interest" may be sold only with PHA financing.

*HUD Response.* The NPRM provides that the homeownership program may convey "any ownership interest that the PHA considers appropriate." With respect to cooperative and other forms of ownership interest, nothing in the list of examples is meant to be exclusive. Therefore, there is no need to add additional specific types of ownership interests to the list of examples. HUD has added the clause "but not limited to" after the word "including" to clarify this intent.

With respect to leasehold interests, a pure leasehold is not generally considered a homeownership interest and would not be included. However, sale via a bona fide lease-purchase arrangement would be permissible, and HUD is making a change to § 906.39 to permit such sales.

*Comment:* Two commenters suggested changes to proposed § 906.7, which sets forth the physical condition standards for units offered for sale.

A. One commenter stated that property should be required to meet Real Estate Assessment Center ("REAC") guidelines.

*HUD Response.* For housing that will, once it is sold, no longer receive

funding under an ACC, HUD believes that the local code standards (or, if none exist, the Housing Quality Standards used in the Housing Choice Voucher program under 24 CFR part 982) are more appropriate. In addition, the current proposed § 906.7 is essentially similar to the parallel section in HUD's 5(h) program regulations, albeit slightly more stringent in that § 906.7 eliminates an escape clause for assurances of future repairs. Congress has generally approved HUD's implementation of the 5(h) program, and patterned the new statutory section 32 after the 5(h) regulations. (See 64 FR 49932.) Thus, HUD has made no change as a result of this comment.

B. One commenter stated that the rule should clarify the relationship between local code standards and the physical requirements for public housing.

*HUD Response.* Proposed § 906.7 provides that a property offered for sale must meet local code requirements or, if no local code exists, housing quality standards established by HUD under 24 CFR part 982. HUD believes that this description of the relationship between local code and public housing standards does not require further clarification. In addition, this final rule adds in § 906.7(a) a more precise description and citations for the lead paint requirements.

*Comment:* Two commenters stated that the final rule should address "the fact that the ACC subsidy that is attached to the particular unit that is sold could be transferred to another unit being brought on line" by the PHA.

*HUD Response.* Section 32 does not provide a basis for changing the ordinary public housing development requirements in part 941 of this title. Once the property is sold and the ACC terminates, as long as the PHA is under the total development limit set forth in 24 CFR 941.102(c), the PHA can develop another unit according to the normal development requirements. HUD has made no change as a result of this comment.

*Comment:* One commenter stated that the right of first refusal should be extended to residents of non-public housing units in the program.

*HUD Response.* Section 32 expressly grants the right of first refusal to residents occupying a public housing unit, but has made no similar provision for residents of non-public housing units. Non-public housing residents are entitled to Uniform Relocation Act benefits (See 49 CFR part 24 and part 42 of this title.) (See also proposed § 906.24). Therefore, HUD has made no change as a result of this comment.