

§ 891.120 Project design and cost standards.

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(e) Projects under this part may have on their sites commercial facilities for the benefit of residents of the project and of the community in which the project is located, so long as the commercial facilities are not subsidized with funding under the supportive housing programs for the elderly or persons with disabilities. Such commercial facilities are considered public accommodations under Title III of the Americans with Disabilities Act and must be accessible under the requirements of that Act.

Subpart B—202 Supportive Housing for the Elderly

■ 4. Amend 24 CFR 891.205 by revising the definition of “acquisition” in § 891.205 to read as follows:

§ 891.205 Definitions.

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Acquisition means the purchase of (or otherwise obtaining title to) existing housing and related facilities.

Subpart C—Section 811 Supportive Housing for Persons With Disabilities

■ 5. Amend 24 CFR 891.305 by revising the definition of “acquisition” in § 891.305 to read as follows:

§ 891.305 Definitions.

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Acquisition means the purchase of (or otherwise obtaining title to) existing structures to be used as housing for persons with disabilities.

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Subpart D—Project Management

■ 6. Amend 24 CFR 891.405 by adding a sentence to the end of paragraph 891.405(d) to read as follows:

§ 891.405 Replacement reserve.

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(d) * * * With HUD approval, reserves may be used to reduce the number of dwelling units, provided that the purpose for the reduction is the retrofitting of obsolete or unmarketable units.

■ 7. Add a new subpart F to read as follows:

Subpart F—For-Profit Limited Partnerships and Mixed-Finance Development for Supportive Housing for the Elderly or Persons With Disabilities

Sec.

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§ 891.800 Purpose.

The purpose of this subpart is to establish rules allowing for, and regulating the participation of, for-profit limited partnerships, of which the sole general partner is a Nonprofit Organization meeting the requirements of 12 U.S.C. 1701q(k)(4) or 42 U.S.C. 8032(k)(6), in the development of supportive housing for the elderly and persons with disabilities using mixed-finance development methods. These rules are intended to develop more supportive housing for the elderly and persons with disabilities by using Federal assistance, private capital and expertise, and tax credits.

§ 891.802 Applicability of other provisions.

The provisions of 24 CFR part 891, subparts A–D, apply to this subpart F unless otherwise stated.

§ 891.805 Definitions.

In addition to the definitions at § 891.105, the following definitions apply to this subpart:

Mixed-finance owner, for the purpose of the mixed-finance development of supportive housing under this subpart, means a for-profit limited partnership of which a Single-Purpose Private Nonprofit Organization (in the case of supportive housing for the elderly), or a Single-Purpose Nonprofit Organization with a 501(c)(3) tax exemption (in the case of supportive housing for the disabled) is the sole general partner. The purpose of the mixed-finance owner must include the promotion of the welfare of the elderly or persons with disabilities, as appropriate.

Single-Purpose Private Nonprofit Organization (in the case of supportive housing for the elderly) or *Single-Purpose Nonprofit Organization* (in the case of supportive housing for persons with disabilities) (for the purposes of this subpart, both types of organization are referred to as “Nonprofit Organization”), for the purpose of this subpart, means any institution or foundation:

(1) In the case of supportive housing for the elderly, that meets the requirements of the definition of “private nonprofit organization” found in § 891.205 of this title; or

(2) In the case of supportive housing for persons with disabilities, that meets the requirements of the definition of “nonprofit organization” in § 891.305 of this title; and that

(3) Is the general partner of a for-profit limited partnership, if the Nonprofit Organization meets the requirements of this definition and owns at least one-hundredth of one percent of the partnership assets, or is a nonprofit corporation wholly owned and controlled by a Nonprofit Organization meeting those requirements. If the project will include units financed with the use of Federal Low-Income Housing Tax Credits and the organization is a limited partnership, the limited partnership must meet the requirements of section 42 of the IRS code, including the requirements of section 42(h)(5).

§ 891.808 Capital advance funds.

(a) HUD is authorized to provide capital advance funds to expand the supply of housing for the elderly and persons with disabilities in accordance with the rules and regulations of the Section 202 and 811 supportive housing programs. For mixed-finance projects, HUD provides a capital advance funds reservation to the sponsor, which transfers the fund reservation to the Nonprofit Organization, which is general partner of a for-profit limited partnership meeting the requirements of this subpart. HUD then provides the capital advance funds to the Nonprofit Organization, which makes a non-amortizing loan to the mixed-finance owner to be repaid within 40 years at the 202 or 811 interest rate in effect on the date of the closing of the capital advance. The capital advance funds may be provided as a loan in the case of a mixed-finance project using a nine percent tax credit, and as a pass-through to the limited partnership in the case of mixed-finance projects using tax-exempt bonds with four percent tax credit. The capital advance funds will be disbursed under a disbursement escrow agreement