

Reports on Seller Funded Downpayment Assistance

- *GAO Report:* Additional Action Needed to Manage Risks of FHA-Insured Loans with Down Payment Assistance

<http://www.gao.gov/new.items/d0624.pdf>

- *FHA Report:* Audit of Loans with Downpayment Assistance

<http://www.hud.gov/offices/hsg/comp/rpts/dpassist/dpa.doc>

- *FHA Report:* Examination of Downpayment Gift Programs Administered by Non-Profits

<http://www.hud.gov/offices/hsg/comp/rpts/dpassist/dpa2.doc>

- *George Mason University Report:* An Evaluation of Research on the Performance of Loans with Downpayment Assistance

<http://www.ameridream.org/Documents/Reports/Evaluation-of-Research-DPA.pdf>

- *Milken Institute Study:* Expanding Affordable Homeownership with Private Capital

<http://www.nehemiahcorp.org/milkenreport>

Summary of IRS Ruling (Revenue Rule 2006-27)

- IRS published Revenue Ruling on May 22, 2006, stating that nonprofits offering seller funded gifts for downpayment will no longer qualify as tax-exempt charities IF there is any arrangement between parties to mutually benefit from the transaction, often demonstrated by correlation in amount of funds exchanged.
 - To meet requirements of 501(c)(3) of the Internal Revenue Code, gift must be offered and received without expectation of benefit in return.
 - Programs are still legal, but no longer qualify as “charitable.”
 - IRS’ Ruling opines that nonprofits offering seller funded gift programs: a) are not organized and operated exclusively for charitable and educational purposes and b) do not serve a public rather than private interest.
 - The new position by IRS is that the seller contribution is not made with charitable intent; the gifts are not provided out of “detached or disinterested generosity.”
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Impact of IRS Ruling

- IRS must examine each nonprofit organization separately, reviewing the programs and operations to determine which is in compliance.
 - Nonprofits found out of compliance will have their 501(c)(3) status revoked.
 - Similar organizations with applications pending may not receive 501(c)(3) status.
 - Revocation of nonprofit status will remove organizations' eligibility to do business with FHA. Loans with nonprofit seller-funded gifts represent approximately 1/3 of FHA FY2006 business. No replacement program is currently available.
 - Ruling reaffirms that home sellers will not be permitted to deduct from income taxes payments made to such organizations as charitable contributions.
 - Ruling reaffirms that homebuyers may have to exclude the amount of assistance from the cost basis of their homes.
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Summary of DPA Providers' Position on IRS Revenue Rule 2006-27

- Any benefit to sellers, real estate agents, lenders (private interests) are incidental and necessary when assisting buyers who otherwise would not be in a position to purchase a home. It is impossible to have a home purchase without the participation of these private parties.
 - Downpayment assistance with seller participation has been approved by the IRS and operational for the past 10 years. Legitimate organizations have made complete and transparent filings with the IRS annually.
 - The ruling disregards existing IRS guidance and federal policies.
 - All FHA insured homes using down payment assistance with seller participation have a home value determined by a HUD certified appraiser and using HUD appraising guidelines.
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Summary of FHA Proposed Rule

- The proposed rule reiterates FHA's statutory requirement that an FHA borrower contribute funds to the transaction and lists the permissible and prohibited sources of these funds.

Restrictions on Seller/Interested Party Contributions

- Funds may not come from seller or other entities that benefit financially from the transaction
 - Funds may not come from third-party that is reimbursed by seller or other party that benefits financially from the transaction
 - Prohibition applicable to any type of entity, including nonprofits, governmental bodies, instrumentalities of government, private companies
 - Prohibition applicable to both gifts and loans
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Summary of FHA Proposed Rule, continued

Permissible Sources of Funds to Close/Cash Investment:

** No funds may come from sellers or parties that benefit financially from the transaction.*

Loans/Secondary Financing:

- Family members
- Federal, state, or local government agencies or instrumentalities
- Loans from other sources to individuals 60 years of age or older
- Federal disaster relief loans

Gifts/Grants:

- Family members
 - Employers and labor unions
 - Nonprofits with tax-exempt 501(c) status
 - Disaster relief grants
 - Other sources approved by the Secretary on a case-by-case basis
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DPA Providers' Position on FHA Proposed Rule

- Eliminates privately funded programs responsible for moving more than 500,000 homebuyers into homes in the past decade
 - Eliminates \$500 million of homebuyer resources currently available to support home purchases for working-class families
 - Immediately reduces FHA purchase money volume by one-third
 - Eliminates millions of dollars of local & state real estate taxes
 - Eliminates lender commissions, real estate agent commissions and other local spending by new homeowners
 - Downpayment requirement returns as barrier to working-class families, denying them access to asset and wealth accumulation opportunities
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HUD Proposed Rule: Relevant Web Sites

- Download and read Proposed Rule, "Standards for Mortgagors' Investment in Mortgaged Property," from government-wide regulations web site:

<http://www.regulations.gov/fdmspublic/component/main>

- Submit Comments using docket number: FR-5087-P-01
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IRS Revenue Ruling: Relevant Web Sites

- Copy of Internal Revenue Bulletin

http://www.irs.gov/irb/2006-21_IRB/ar07.html

- IRS 501(c) status revocations

<http://www.irs.gov/charities/charitable/article/0,,id=141466,00.html>

- HUD Web Site with Revocations for Seller Funded Gifts

<http://www.hud.gov/offices/hsg/sfh/np/irstatus.cfm>

Campaign to Protect Seller Funded Downpayment Assistance

- Support Downpayment Assistance web site

<http://www.supportdownpaymentassistance.org/>

- Nehemiah web site

<http://www.nehemiahcorp.org/>

- AmeriDream web site

<http://www.ameridream.org/>
