

§ 850.155

(1) were entered into under a State law or local ordinance of general applicability that was enacted and in effect in the jurisdiction before November 30, 1983 and (2) apply generally to rental housing projects not assisted under the Housing Development Grant Program, or (b) are imposed under this subpart. State and local rent controls expressly preempted by this section include, but are not limited to, rent laws or ordinances, rent regulating agreements, rent regulations, occupancy agreements, or financial penalties for failure to achieve certain occupancy or rent projections.

§ 850.155 Securing owner's responsibilities.

Assistance provided under this part shall constitute a debt of the owner (including its successors in interest) to the grantee, and shall be secured by a mortgage or other security instrument. The debt shall be repayable in the event of a substantive, uncorrected violation by an owner of the obligations contained in paragraphs (b), (c), (d) and (e) of § 850.151. The instruments securing this debt shall provide for repayment to the grantee in an amount equal to the total amount of housing development grant assistance outstanding, plus interest which is determined by the Secretary by adding two percent to the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which assistance was made available. The amount to be repaid shall be reduced by 10 percent for each full year in excess of 10 years that intervened between the beginning of the term of the owner-grantee agreement and the violation.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

Subpart A—Summary and Applicability

- Sec.
- 880.101 General.
- 880.104 Applicability of part 880 in effect as of November 5, 1979.
- 880.105 Applicability to proposals and projects under 24 CFR part 811.

24 CFR Ch. VIII (4–1–99 Edition)

Subpart B—Definitions and Other Requirements

- 880.201 Definitions.
- 880.205 Limitation on distributions.
- 880.207 Property standards.
- 880.208 Financing.
- 880.211 Audit.

Subparts C–D [Reserved]

Subpart E—Housing Assistance Payments Contract

- 880.501 The contract.
- 880.502 Term of contract.
- 880.503 Maximum annual commitment and project account.
- 880.504 Leasing to eligible families.
- 880.505 Contract administration and conversions.
- 880.506 Default by owner (private-owner/ HUD and PHA-owner/ HUD projects).
- 880.507 Default by PHA and/or owner (private-owner/ PHA projects).
- 880.508 Notice upon contract expiration.

Subpart F—Management

- 880.601 Responsibilities of owner.
- 880.602 Replacement reserve.
- 880.603 Selection and admission of assisted tenants.
- 880.604 Tenant rent.
- 880.605 Overcrowded and underoccupied units.
- 880.606 Lease requirements.
- 880.607 Termination of tenancy and modification of lease.
- 880.608 Security deposits.
- 880.609 Adjustment of contract rents.
- 880.610 Adjustment of utility allowances.
- 880.611 Conditions for receipt of vacancy payments.
- 880.612 Reviews during management period.
- 880.612a Preference for occupancy by elderly families.

AUTHORITY: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

SOURCE: 44 FR 59410, Oct. 15, 1979, unless otherwise noted.

Subpart A—Summary and Applicability

§ 880.101 General.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 new construction program. The assistance may

be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(b) This part does not apply to projects developed under other Section 8 program regulations, including 24 CFR parts 881, 882, 883, 884, and 885, except to the extent specifically stated in those parts. Portions of subparts E and F of this part 880 have been cross-referenced in 24 CFR parts 881 and 883.

[61 FR 13587, Mar. 27, 1996]

§ 880.104 Applicability of part 880 in effect as of November 5, 1979.

(a) Part 880, in effect as of November 5, 1979, applies to all proposals for which a notification of selection was not issued before the November 5, 1979 effective date of part 880. (See 24 CFR part 880, revised as of April 1, 1980.) Where a notification of selection was issued for a proposal before the November 5, 1979 effective date, part 880, in effect as of November 5, 1979, applies if the owner notified HUD within 60 calendar days that the owner wished the provisions of part 880, effective November 5, 1979, to apply and promptly brought the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) of this part apply to all projects for which an Agreement was not executed before the November 5, 1979, effective date of part 880. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised subpart E of this part applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised subpart F of this part applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 880.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the November 5, 1979, effective date of part 880. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes ef-

fective on or after the 60th day following the November 5, 1979 effective date of part 880. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

(d) Notwithstanding the provisions of paragraph (b) of this section, the provisions of 24 CFR part 5 (concerning preferences for selection of applicants) apply to all projects, regardless of when an Agreement was executed.

[61 FR 13587, Mar. 27, 1996]

§ 880.105 Applicability to proposals and projects under 24 CFR part 811.

Where proposals and projects are financed with tax-exempt obligations under 24 CFR part 811, the provisions of part 811 will be complied with in addition to all requirements of this part. In the event of any conflict between this part and part 811, part 811 will control.

Subpart B—Definitions and Other Requirements

§ 880.201 Definitions.

The terms *Fair Market Rent (FMR)*, *HUD*, *NOFA*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

ACC. (Annual Contributions Contract) For a private-owner/PHA project, for which the Contract is administered by a PHA, the ACC is the contract between the PHA (as contract administrator) and HUD. Under the ACC, HUD commits to provide the PHA with the funds needed to make housing assistance payments to the owner and to pay the PHA for HUD-approved administrative fees, and the PHA agrees to perform the duties of a contract administrator.

Agency. As defined in 24 CFR part 883.

Agreement. (Agreement to Enter into Housing Assistance Payments Contract) The Agreement between the owner and the contract administrator which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, the administrator will enter into the Contract with the owner.

Annual income. As defined in part 813 of this chapter.