

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 218

An Act to amend and reenact § 36-55.35 of the Code of Virginia, relating to Virginia Housing Development Authority Act; terms and conditions of purchases from and sales to mortgage lenders of mortgage loans.

[H 1887]

Approved March 16, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 36-55.35 of the Code of Virginia is amended and reenacted as follows:

§ 36-55.35. Terms and conditions of purchase from and sale to mortgage lenders of mortgage loans; loans to mortgage lenders.

A. ~~No~~ Except in the case of a mortgage loan that, when made by the mortgage lender, is to be purchased by HDA, no obligation shall be eligible for purchase or commitment to purchase by HDA from a mortgage lender hereunder if the date of said obligation precedes the date of HDA's commitment to purchase such obligation by such number of years as shall be determined by HDA and unless at or before the time of transfer thereof to HDA such mortgage lender certifies:

1. That in its judgment the loan would in all respects be a prudent investment; and
2. That the proceeds of sale or its equivalent shall be reinvested as provided in subsection F of this section, or invested in short-term obligations pending such reinvestment. However, certification *pursuant to this subsection* shall not be required in the case of the purchase or commitment to purchase by HDA of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof.

B. HDA shall purchase mortgage loans at a purchase price equal to the outstanding principal balance; however, discount from the principal balance or the payment of a premium may be employed to effect a fair rate of return which in the opinion of HDA is consistent with the obligations of the HDA hereunder and the purposes of this chapter. In addition to the aforesaid payment of outstanding principal balance HDA shall pay the accrued interest due thereon, on the date the loan or obligation is delivered against payment therefor. The provisions of this subsection shall not apply to the purchase by HDA of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof, in which case the purchase price shall be determined by agreement of HDA and the mortgage lender.

C. Loans purchased or sold hereunder may include but shall not be limited to loans which are insured, guaranteed or assisted by the federal government or for which there is a commitment by the federal government to insure, guarantee or assist such loan.

D. HDA shall from time to time adopt, modify or repeal rules and regulations governing the making of loans to mortgage lenders and the purchase and sale of mortgage loans and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

1. Procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans or for loans to mortgage lenders;
2. Limitations or restrictions as to number of family units, location or other qualifications or characteristics of residences to be financed by residential mortgage loans and requirements as to the income limits of persons and families of low and moderate income occupying such residences;
3. Restrictions as to the interest rates on residential mortgage loans or the return realized therefrom by mortgage lenders;
4. Requirements as to commitments by mortgage lenders with respect to residential mortgage loans;
5. Schedules of any fees and charges necessary to provide for expenses and reserves of the HDA; and
6. Any other matters related to the duties and the exercise of the powers of HDA to purchase and sell mortgage loans or to make mortgage loans or other loans to mortgage lenders.

Such rules and regulations shall be designed to effectuate the general purposes of this chapter and the following specific objectives: (i) the expansion of the supply of funds in the Commonwealth available for residential mortgage loans; (ii) the provision of the additional housing needed to remedy the shortage of adequate housing in the Commonwealth and eliminate the existence of a large number of substandard dwellings; and (iii) the restriction of the financial return and benefit to that necessary to protect against the realization by mortgage lenders of an excessive financial return or benefit as determined by prevailing market conditions.

E. The interest rate or rates and other terms of the loans to mortgage lenders made from the proceeds of any issue of bonds of the HDA shall be at least sufficient so as to assure the payment of said bonds and the interest thereon as the same become due from the amounts received by HDA in repayment of

such loans and interest thereon.

F. HDA shall require as a condition of each loan to a mortgage lender and as a condition of the purchase or the making of a commitment to purchase mortgage loans from a mortgage lender that such mortgage lender within such period of time following the receipt of the proceeds as shall be prescribed by rules and regulations of HDA, shall have entered into written commitments to make, and shall thereafter proceed as promptly as practicable to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than twenty years from the date thereof in an aggregate principal amount equal to the amount of such proceeds. HDA shall not purchase nor make commitment to purchase mortgage loans or obligations from a mortgage lender from which it has previously purchased mortgage loans nor make a loan to a mortgage lender to which it has previously made a loan unless said mortgage lender has either restored or made commitments to restore to its portfolio of residential mortgage loans in the Commonwealth of Virginia, residential mortgage loans having a stated maturity of not less than twenty years from the date thereof in an aggregate principal amount equal to either the proceeds of prior sale or the amount of prior loan to said mortgage lender. HDA may require the submission to it by each mortgage lender of evidence satisfactory to it of the making of such new residential mortgage loans. The provisions of this subsection shall not apply to the purchase or commitment to purchase by HDA of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof *or a mortgage loan that, when made by the mortgage lender, is to be purchased by HDA.*

G. HDA shall require that such loans to mortgage lenders shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts as HDA shall by resolution determine to be necessary to assure the payment of such loans and the interest thereon as the same become due. Such collateral security shall consist of (a) direct obligations of, or obligations guaranteed by, the United States of America or the Commonwealth of Virginia; (b) bonds, debentures, notes or other evidences of indebtedness, satisfactory to the HDA, issued by any of the following federal agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of Washington, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association; (c) direct obligations of or obligations guaranteed by the Commonwealth; or (d) mortgages insured or guaranteed, upon terms and conditions satisfactory to the HDA, by the federal government or private mortgage insurance companies as to payment of principal and interest.

2. That an emergency exists and this act is in force from its passage.