



HOMEfires - Vol. 9 No. 3, March 2008

Q: Can Participating Jurisdictions (PJs) use the temporary Section 203(b) limits authorized by the Economic Stimulus Act of 2008 (Public Law 110-185) as the maximum purchase price or after-rehabilitation value limits for their HOME-assisted homeownership housing? If not, what limits should PJs use?

A. No. PJs cannot use the higher Section 203(b) limits approved for use in the Federal Housing Administration (FHA) Single Family Mortgage insurance program this year, because doing so would violate the HOME statute.

Background

Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act requires that the value of homeownership units assisted with HOME funds not exceed 95 percent of the area median purchase price or after-rehabilitation for single family housing, as determined by the HUD Secretary. The HOME final rule at 24 CFR 92.254(a)(2)(iii) permits PJs to use the FHA Single Family Mortgage Limits under 203(b) of the National Housing Act (12 U.S.C. 1709(b)) as the 95% of median value limit for HOME-assisted homeownership housing. (This provision of the HOME final rule also permits a PJ to determine its own 95% of area median sales price using a prescribed methodology.)

Section 202 of the Economic Stimulus Act of 2008 (Public Law 110-185), enacted on February 13, 2008, authorizes HUD to temporarily increase the Section 203(b) limits up to 125 percent of the median single family house price for the area. Because the 203(b) limits recently issued by FHA for its single family mortgage program exceed 95 percent of median sales price, they cannot be used for the HOME Program. These temporary mortgage limits will expire in January 2009, if Congress does permanently increase them as part of planned FHA reform.

The annual 203(b) limits are based on 95% of area median sales prices, except that there are national floor and ceiling loan amounts for low- and high-cost areas which are percentages of conforming loan limits. Over time, statutory changes have increased the 203(b) floor, rendering the 203(b) limits a less than reliable surrogate for PJs' 95% of area median sales prices. The 2007 FHA single family loan limit floor was \$200,050 - substantially more than 200% of the median sales price in many areas. The 2007 national FHA loan limit ceiling of \$362,790 was far below the actual 95% of median sales price in many high cost areas. As a consequence of these changes, HUD must reconsider the appropriateness of the 203(b) limit's use as a purchase price or after-rehabilitation value limit for the HOME program.

HUD plans to issue a proposed rule to address this issue. PJs and other interested members of the public will have the opportunity to comment on the policy that HUD proposes. HUD has issued instructions to its Field Offices regarding the appropriate limits for PJs to use in their HOME-funded homeownership projects until the issuance of a final rule. The guidance is explained below.

Interim Policy

In early February, 2008, FHA issued 203(b) mortgage limits based upon the methodology that existed before the passage of the Economic Stimulus Act (e.g., before the temporary increase in the 203(b) limits became law). PJs may continue to use these "pre-stimulus" limits as the after-rehabilitation value or purchase price limit for their HOME homeownership activities. HUD is attaching a spreadsheet containing these limits for each county in the U.S. For PJs' information, the spreadsheet also contains the actual 95% of median sales price for each area to inform them of how their actual 95% of median sales price compares to the pre-stimulus 203(b) limits. PJs whose actual 95% of area median sales price is below the pre-stimulus 203(b) limit may choose to continue to use the higher limit during this interim period. PJs whose actual 95% of area median sales price is higher than the pre-stimulus FHA "ceiling" may choose to use the higher 95% of area median sales price during this interim period. PJs that have previously obtained HUD Field Office approval of a PJ-determined 95% value limit using the methodology described in the HOME regulations at 24 CFR 92.254(a)(2)(iii) may continue to use those locally-determined limits. **Again, PJs are not permitted to adopt the new FHA limits that have been temporarily increased by the Economic Stimulus Act.**

HOME 95% area median purchase price limits