

HUD Earnest Money Forfeiture and Return Policy

Should the sales transaction fail to close as scheduled, HUD may consider the earnest money deposit forfeited or may return all or a portion of the earnest money deposit.

Investor Buyer

Forfeiture of Entire Earnest Money Deposit

Subject to State Law, the Investor Buyer forfeits 100 percent of the earnest money deposit, unless HUD cancels the sales contract due to HUD's inability to close the transaction for any reason.

Owner-Occupant Buyers

Return of Entire Earnest Money Deposit

Subject to State Law, HUD will return 100 percent of an Owner-Occupant Buyer's earnest money deposit in the following circumstances:

- there has been a death in the immediate family (contract holder, spouse, or children living in the same household);
- there has been a recent serious illness in the immediate family that has resulted in significant medical expenses or substantial loss of income, thus adversely affecting the Buyer's financial ability to close the sale;
- there has been a loss of job by one of the primary wage earners or substantial loss of income through no fault of the Buyer;
- on an insured sale, HUD determines that the Buyer is not an acceptable borrower;
- on an uninsured sale, the Buyer was pre-approved for FHA-insured Mortgage financing in an appropriate amount by a recognized mortgage lender but, despite good faith efforts, was ultimately unable to secure mortgage financing;
- within 30 days of the contract ratification date, the Buyer has provided to the Asset Manager written documentation from a lender supporting the Buyer's inability to secure financing;
- HUD cancels the contract due to the documented presence and/or condition of lead-based paint and/or lead-based paint hazards;
- pursuant to the terms of the VA Amendatory Clause for purchasers using VA financing; or
- other circumstances evidencing equally good cause, as determined by HUD.

In order to receive any part of the earnest money deposit, the Owner-Occupant Buyer must submit documentation within the allotted time frame to HUD's Asset Manager (AM) evidencing the circumstances relating to the transaction's failure to close.

