

# PROGRAM POLICY AND UNDERWRITING GUIDELINES



FULTON COUNTY, GA

# TABLE OF CONTENTS

## Contents

Fulton County, GA.....	5
Home Owner Program (HOP).....	5
PROGRAM POLICY.....	5
1.0 PROGRAM OVERVIEW .....	5
2.0 FUNDING SOURCE .....	5
2.1 PROGRAM FUNDING.....	5
3.0 AMOUNT OF ASSISTANCE .....	5
3.1 FUNDING AMOUNT(S) .....	5
3.2 MAXIMUM ASSISTANCE AMOUNT .....	6
4.0 ELIGIBILITY .....	6
4.1 RESIDENCY .....	6
4.2 FIRST-TIME HOMEBUYER STATUS.....	6
4.3 PRIMARY RESIDENCE.....	6
4.4 INCOME LIMIT .....	6
5.0 CALCULATION OF INCOME.....	7
5.1 DETERMINING ANNUAL INCOME.....	7
5.2 VERIFICATION OF INCOME.....	8

6.0	GENERAL PROGRAM REQUIREMENTS .....	8
6.1	HOMEBUYER EDUCATION CLASS .....	8
6.2	LENDERS .....	8
6.3	REAL ESTATE REPRESENTATION .....	8
6.4	NON-DISCRIMINATION .....	8
6.5	DISABILITIES .....	8
6.6	TRANSLATION .....	9
7.0	INSPECTIONS .....	9
7.1	REQUIRED PROGRAM INSPECTION – HOUSING INSPECTION .....	9
8.0	LOAN CLOSING REQUIREMENTS .....	9
8.1	SECURING PROGRAM FUNDS AND AFFORDABILITY PERIODS .....	9
8.2	INSTRUMENTS SECURING PROGRAM ASSISTANCE .....	10
8.3	OTHER REQUIRED PROGRAM DOCUMENTS .....	10
8.4	MORTGAGEE CLAUSE FOR INSURANCE .....	10
8.5	FLOOD INSURANCE .....	10
9.0	PROPERTY REQUIREMENTS .....	10
9.1	ELIGIBLE PROPERTY TYPES .....	10
	UNDERWRITING GUIDELINES .....	11
	Introduction .....	11

Before any HOP assistance can be provided, the County HOP staff must prepare a HOME Subsidy Layering and Underwriting that complies with the HUD HOME program regulations and requirements at CPD Notices 15-09 and 15-11. The County's HOP Policy's are as follows. ....	11
11.0 ASSET LIMITATION/AVAILABLE ASSETS TO ACQUIRE HOUSING .....	11
11.1 APPLICANT BUYER FUNDING CONTRIBUTION(S) .....	11
11.2 ASSET LIMITATION .....	11
11.3 SELLER CONTRIBUTIONS.....	11
11.4 GIFT FUNDS .....	11
11.5 FINANCIAL RESERVES/FINANCIAL RESOURCES TO SUSTAIN HOMEOWNERSHIP .....	11
12.0 MAXIMUM PROPERTY VALUE (FOR HOME PROGRAM LOANS ONLY) .....	11
13.0. ASSESSMENT OF APPLICANT BUYER'S ABILITY TO PURCHASE.....	12
13.1 CREDIT .....	12
13.2 HOUSING EXPENSE (FRONT-END RATIO) GUIDELINES .....	12
13.3 MONTHLY DEBT TO INCOME (DTI) EXPENSE .....	12
13.4 MAXIMUM LOAN AMOUNT AND LOAN TO VALUE.....	12
14.0 QUALIFYING LOANS.....	13
14.1 LOAN TERMS .....	13
14.2 LOAN TYPES.....	13
14.3 ELIGIBLE EXPENSES AND CLOSING COSTS .....	13
15.0 PREDATORY LENDING POLICY.....	14
16.0 DECLINING ASSISTANCE .....	14

17.0 LOAN POLICIES.....15

17.1 LOAN DEFAULT .....15

17.2 SUBORDINATION/REFINANCING.....15

17.3 RECAPTURE PROVISION .....15

17.4 NET PROCEEDS.....16

17.5 LOAN ASSUMPTION .....16

17.6 FORECLOSURE .....16

**Fulton County, GA  
Home Owner Program (HOP)  
PROGRAM POLICY AND UNDERWRITING GUIDELINES**

## **PROGRAM POLICY**

### **1.0 PROGRAM OVERVIEW**

---

The Fulton County, GA Home Owner Program (HOP) provides assistance to low- and moderate-income persons and families for the purchase of a home, to be used as the primary residence, in Fulton County outside of the City of Atlanta, Chattahoochee Hills, John's Creek, Roswell, Sandy Springs and South Fulton. The objective of the program is to:

- Realtor Representation is required for the buyer
- Provide thorough knowledge of homeownership through homebuyer education and counseling,
- Ensure that the applicant buyer is ready to acquire housing and can sustain homeownership, and
- Assist with funding deficiencies by providing down payment and closing cost assistance.

In addition of HOP funding, these objectives are accomplished by working with local lenders.

### **2.0 FUNDING SOURCE**

---

#### **2.1 PROGRAM FUNDING**

Funds are provided by the United States Department of Housing and Urban Development (HUD). HUD funds are awarded by the County through the federal HOME Investment Partnership Program. Funds are processed and given on a first come, first served basis to eligible applicant buyers until program funding is depleted.

HOME funds will be used for properties with a maximum household area median income (AMI) of 80% as adjusted annually by HUD.

### **3.0 AMOUNT OF ASSISTANCE**

---

#### **3.1 FUNDING AMOUNT(S)**

The amount of program assistance is based upon income, household size, and the applicant buyer's needs. Eligible homebuyers may receive up to \$22,500 for down payment and closing cost assistance. Eligible homebuyers purchasing homes must be in County approved location. Factors used in determining the HOP assistance amounts:

- Applicant buyer financial resources
- Contract purchase price
- Debts
- Loan program type

- Seller contribution
- Loan discounts/fees
- Housing and Debt-to-Income Ratios

### **3.2 MAXIMUM ASSISTANCE AMOUNT**

The maximum amount of assistance is \$22,500; however, the program will only provide the maximum amount of funds needed by the applicant buyer.

## **4.0 ELIGIBILITY**

---

To qualify for assistance, buyers must meet the preliminary eligibility criteria as follows:

### **4.1 RESIDENCY**

Applicant buyer(s) must be a US citizen, permanent resident, or have Deferred Action for Childhood Arrival (DACA) status. Due diligence for confirming citizenship and/or residency status and compliance with federal and other requirements for mortgage loan financing for borrowers is the responsibility of the County's HOP staff.

### **4.2 FIRST-TIME HOMEBUYER STATUS**

The applicant buyer must be a first-time homebuyer or cannot have owned a home within the last three (3) years – ([Code of Federal Regulations 24 CFR 572.5](#)). The buyer may not own any other real property or have an ownership interest in any real estate at the time of closing (i.e. vacation homes, timeshares, and vacant land). Applicant buyers must occupy the property within 60 days of signing the security instrument.

### **4.3 PRIMARY RESIDENCE**

The applicant buyer must occupy the home as a principal residence during the loan term or the HOME period of affordability; whichever is greater. For assistance less than \$22,500, a 10-year affordability period is required. A declaration of restrictions will be signed at closing acknowledging this condition. Sale or rental of the property will be an event of default of the loan terms.

### **4.4 INCOME LIMIT**

The applicant buyer's income cannot exceed 80% of the area median income (AMI) for households as published by HUD for Fulton County annually. Current income limits are also available online at: <https://www.hudexchange.info/programs/home/home-income-limits/> or by contacting program staff.

**Fulton County Homeownership Program (HOP) Effective Date: June 1 2024**  
**2024 Adjusted HOME income Limits**

Household Size	Income Limits
1 person	\$60,200
2 persons	\$68,800
3 persons	\$77,400
4 persons	\$86,000
5 persons	\$92,800
6 persons	\$99,800
7 persons	\$106,650
8 persons	\$113,550

#### **4.5 Conflict of Interest**

If an applicant for HOP HOME assistance is a current Fulton County employee, officer, elected or appointed official, all federal Conflict of Interest regulation must be followed. Specifically, all provisions at 24 CFR Part 92.356, and 2 CFR Part 200.317-18 must be met before any federal assistance can be considered.

#### **4.6 Property Sales Price**

Properties purchased utilizing HOP HOME assistance cannot exceed 95 percent of the area median purchase price for single family housing, as determined by HUD. HUD publishes these limits annually.

**Newly Constructed Housing.** The HOME homeownership value limits for newly constructed HOME units is 95 percent of the median purchase price for the area based on Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing. For 2024, the limit for newly constructed housing is \$367,000

**Existing Housing.** The HOME homeownership value limits for existing HOME units is 95 percent of the median purchase price for the area based on Federal FHA single family mortgage program data for existing housing and other appropriate data (Federal Housing Finance Agency (FHFA) data on purchase mortgages securitized by Fannie Mae and Freddie Mac) that are available nationwide for sale of existing housing in standard condition. For 2024, the limit for existing housing is \$347,000.

## **5.0 CALCULATION OF INCOME**

---

### **5.1 DETERMINING ANNUAL INCOME**

The HUD Part 5 definition of annual income will be used for the Homebuyer Down Payment Assistance Program. *Annual income* is defined as the gross annual income of all adults expected to live in the residence being financed, including income received by any household member who is 18 years of age or older (except a full-time dependent student, 12 credit hours or more).

Income sources used for establishing the annual gross income of the applicant buyer's household shall be determined in accordance with the [Code of Federal Regulations 24 CFR 5.609](#) (which also lists income "Inclusions" and "exclusions"). All income is projected for 12 months to calculate income compliance (regardless of its likelihood to continue).

## **5.2 VERIFICATION OF INCOME**

Written verification of all household members over the age of 18 is required, and will be used to determine total household annual income. Household members with no income will be asked to sign an affidavit of no income. If the person is a student, a current transcript must be provided. Household income will not be re-verified at the time of closing unless more than six months have elapsed since income eligibility was determined. Verification of income includes the following documents as proof of income:

- 3 most recent years of tax return transcripts instead of Tax Returns
- Two concurrent months of paystubs
- Verification of employment
- Profit and loss statement (if self-employed)
- Supplemental income award letters (i.e. Social Security, Supplemental Security Income, Social Security Disability, etc.)
- Other income documentation as may be required

## **6.0 GENERAL PROGRAM REQUIREMENTS**

---

### **6.1 HOMEBUYER EDUCATION CLASS**

All applicant buyers must receive housing counseling before receiving HOP Program Funding [[Code of Federal Regulations 24 CFR §92.254\(a\) \(3\)](#)]. A minimum of 8 hours of in-person, County-approved classroom education (no online courses) and an intake counseling session is required. The homebuyer education class is required for anyone listed on the Deed of Trust. If the client has already completed the class, the certificates are valid for one year and the applicant buyer must maintain the certificate as proof of attendance. Applicant buyers who complete education more than 12 months prior to closing must either re-take a homebuyer education course or participate in a refresher session with a certified housing counselor. Spouses to be included as co-applicant regardless of first mortgage status and both required to take HBE class.

### **6.2 LENDERS**

Lenders will work with applicant buyers participating in this program and the County's HOP program staff.

### **6.3 REAL ESTATE REPRESENTATION**

Applicant buyers must have realtor representation to participate in the program.

### **6.4 NON-DISCRIMINATION**

In the delivery of County's HOP program, services or activities there shall be no discrimination against any member of the public on the basis of sex, race, gender, color, ethnicity, national origin, age, familial status, marital status, or religion.

### **6.5 DISABILITIES**

Any individual with a disability who needs an interpreter, or other auxiliary aids must contact the County's contracted HOP program to make the request 3-5 days prior to the meeting or event.

## 6.6 TRANSLATION

Any individual with Limited English Proficiency who needs an interpreter, or other auxiliary aids must contact the County's HOP program to make the request 3-5 days prior to the meeting or event.

## 7.0 INSPECTIONS

---

### 7.1 REQUIRED PROGRAM INSPECTION – HOUSING INSPECTION

All properties that are purchased under the County's HOP program must have an initial property inspection. The purpose of the property inspection is to ascertain all local housing code deficiencies. If a local code deficiency(s) is/are identified during the initial inspection, those must be corrected prior to the HOP program closing. It is recommended to each applicant buyer to obtain a home inspection.

Housing Quality Standards (HQS) 24 CFR 982.401, and the existing Fulton County Housing and/ or local ordinance codes where the unit is located in comparison to the subject property for the HOP applicant will be used for existing houses. For newly constructed units, a Certificate of Occupancy must be provided by either the County Inspector prior to loan closing to ensure the unit is code compliant.

A County home inspector will inspect each property for compliance with all local codes and fill out the required HOP Program checklist documenting property conditions. Prior to HOP closing, the property must comply with all local codes.

## 8.0 LOAN CLOSING REQUIREMENTS

---

### 8.1 SECURING PROGRAM FUNDS AND AFFORDABILITY PERIODS

Assistance is provided to the buyer in the form of a 0% interest rate loan on the property based on the amount of HOP program funds provided to the buyer. The affordability periods will vary depending on the amount & timeframe of the loan will be forgiven each year until the loan is fully forgiven. Pursuant to 24 CFR Part 92.254 (a) (4), the HOME/HOP Program requires that the purchaser comply with the Period of Affordability provisions when HOME funds are provided to an eligible home buyer(s).

The Period of Affordability ensures that the property will remain affordable for a certain prescribed period. This time period is based upon the loan amount of the assistance, as shown on the chart below, and begins upon activity completion into HUD's IDIS reporting systems.

<b>Amount of Direct HOP Assistance to the Buyer</b>	<b>Period of Affordability</b>
Under \$25,000	5 years
\$25,000 to \$50,000	10 Years
Over \$50,000	15 Years
Multi-family New Construction Over \$50,000	20 Years

If during the period of affordability any of the following events occur, an annually pro-rated portion

of the HOP assistance will become due and payable:

- Sale or transfer of the property,
- Change in owner-occupancy status, and/or
- Default of first mortgage

## **8.2 INSTRUMENTS SECURING PROGRAM ASSISTANCE**

The Note and Mortgage secure the program funds; all of which are signed and notarized by the applicant buyer at closing. At the completion of closing, the Note and Mortgage are recorded and filed at the Fulton County Recorders Office. A copy of all documents will be placed in the applicant buyer's file and the original documents are retained until cancellation of the loan.

## **8.3 OTHER REQUIRED PROGRAM DOCUMENTS**

Certain documents are required for program funding compliance.

Environmental Review – Since federal HOME funds are used for the HOP assistance, the County will conduct a HUD Part 58 compliant environmental review prior to HOP closing. This process may increase the time needed for underwriting the loan.

## **8.4 MORTGAGEE CLAUSE FOR INSURANCE**

There must be hazard/fire insurance coverage in place on the subject property in an amount not less than the total amount of all loans on the property. The County must be listed in the loss payable clause. This coverage must continue each time the policy is renewed until the County's loan is paid in full or forgiven. If the insurance company cancels its policy, it must notify us no less than ten (10) days prior to the effective date of the termination.

## **8.5 FLOOD INSURANCE**

The home must be located outside the 100-year floodplain.

# **9.0 PROPERTY REQUIREMENTS**

---

## **9.1 ELIGIBLE PROPERTY TYPES**

Program funds may be used to assist the following types of housing:

- New construction
- Existing construction
- Condominiums
- Townhomes
- Manufactured Housing (newly constructed)

As stated in the [Code of Federal Regulations 24 CFR 92.251\(e\)](#), newly constructed manufactured housing must be on a permanent foundation. "*Permanent foundation*" means a foundation system of supports that is capable of transferring all design loads to the ground and meets the requirements of [Code of Federal Regulations 24 CFR 203.43f\(c\)\(i\)](#).

# UNDERWRITING GUIDELINES

## Introduction

Before any HOP assistance can be provided, the County HOP staff must prepare a HOME Subsidy Layering and Underwriting that complies with the HUD HOME program regulations and requirements at CPD Notices 15-09 and 15-11. The County's HOP Policy's are as follows.

### **11.0 ASSET LIMITATION/AVAILABLE ASSETS TO ACQUIRE HOUSING**

---

#### **11.1 APPLICANT BUYER FUNDING CONTRIBUTION(S)**

The HOP Program buyer must make a minimum \$500 investment of their own funds toward the purchase transaction. Applicant buyer contribution will be applied toward any paid up-front expenses first. Homebuyers cannot be reimbursed at closing for up front expenses paid prior to closing.

#### **11.2 ASSET LIMITATION**

For eligibility purposes, all asset information must be listed on application documents. The asset limit is **\$20,000** in liquid assets. This does not include long-term retirement savings (i.e. pension, 401k and IRA accounts, or life insurance cash value). Borrowers with liquid assets in excess of \$20,000 should apply the excess to the required down payment, which may decrease the amount of down payment assistance under this program. The asset limit includes gift funds.

#### **11.3 SELLER CONTRIBUTIONS**

Seller contributions may go toward any expenses that the applicant buyer/buyer is required to provide.

#### **11.4 GIFT FUNDS**

Gift funds may be used and are acceptable only from the applicant buyer(s)' immediate family members.

#### **11.5 FINANCIAL RESERVES/FINANCIAL RESOURCES TO SUSTAIN HOMEOWNERSHIP**

Although not required, it is strongly recommended that the applicant buyer have a 2-month reserve of mortgage payments on hand (preferably in an account) as a safe-guard for sustainability in the event of crisis.

### **12.0 MAXIMUM PROPERTY VALUE (FOR HOME PROGRAM LOANS ONLY)**

---

For Down Payment and Closing Cost Assistance HOP Program loans funded with federal HOME Program funds, the maximum property value may not exceed 95% of the median purchase price for new construction or existing properties for the area, as published by HUD and subject to annual updates. Current program homeownership value limits are available on the HUD website.

## 13.0. ASSESSMENT OF APPLICANT BUYER'S ABILITY TO PURCHASE

---

### 13.1 CREDIT

The applicant buyer must be a reasonable credit risk. The current lending market and lending institutions dictate credit score requirements. Non-traditional credit is acceptable.

### 13.2 HOUSING EXPENSE (FRONT-END RATIO) GUIDELINES

Housing Expense Ratio: The standard guideline for housing debt expense is **33%**. The front-end ratio considers the percentage of gross monthly income the individual homebuyer is expected to pay for monthly housing costs (consisting of the principal, interest, taxes, insurance [PITI] and Homeowners Association – if applicable).

### 13.3 MONTHLY DEBT TO INCOME (DTI) EXPENSE

Determining the DTI ratio: The standard guideline for overall monthly debt is **43%**. The back-end ratio reflects the percentage of gross monthly income the individual homebuyer is expected to pay for housing debt and expenses *plus* all recurring consumer debt.

The typical debts used to determine the qualifying back-end ratios are the sum of the minimum required monthly payments on all the following types of debts:

- Student loans
- Auto loans
- Consumer loans
- Lines of Credit
- Credit Cards
- Child care

Also includes other installment and revolving debt that appears on a credit report, alimony, child support, etc.

In the event that the HOP applicant buyer exceeds the **33%/43%** debt to income ratio, other compensating factors may be taken into consideration to determine eligibility. If the criteria are met, either or both ratios may be increased by 2%. It is strongly recommended that all applicant buyers meet each of the criteria listed below:

- 600 credit score
- 2-month reserves (of the PITI payment amount)
- 12 months of stable rent history

### 13.4 MAXIMUM LOAN AMOUNT AND LOAN TO VALUE

The maximum HOME-assistance will not exceed \$22,500. Not all buyers will qualify for the maximum assistance. The assistance available to any given buyer is based on Fulton County's assessment of the buyer's need and determined by the project underwriting. The County will

base the amount of assistance provided to each buyer based on income, debt, monthly expenses and savings amounts.

## **14.0 QUALIFYING LOANS**

---

The applicant buyer must be able to qualify for a fixed-rate mortgage loan product offered through FHA, USDA, VA or conventional financing.

### **14.1 LOAN TERMS**

Applicant buyers must obtain a fixed-rate thirty- (30) year mortgage term. The applicant buyers must qualify on their own credit (no co-signers). All co-applicant buyers must be listed on the mortgage loan. Married applicants must both sign the County loan documents. Loans are not assumable if the property is sold out right. The loan must be a “Qualified Mortgage” under the requirements of the Consumer Protection Financial Bureau (CFPB) outlined at 12 CFR 1026.43(e). Fulton County uses the “Qualified Mortgage Standards” (QM) developed by the Consumer Financial Protection Bureau. QM Standards include the following elements:

- Lender fees and points are to be a maximum of 3% for loans over \$100,000.
- Closing costs should be reasonable, including origination fees, points, and other lender charges.
- Interest rates must be competitive and must NOT be a “Higher Priced” loan as defined by CFPB. Higher priced loans are those that exceed the Average Prime Offer Rate by more than 1.5% as of the date of the loan’s rate lock. Loans can be checked against the Average Prime Offer Rate by visiting the following website:  
<http://www.ffiec.gov/ratespread/newcalc.aspx>
- Mortgages should not allow for any prepayment penalties.
- Mortgages must not be for a term longer than 30 years.
- Mortgage products must require escrows for taxes and home insurance

### **14.2 LOAN TYPES**

The County’s HOP Program funds may be used with conventional, Federal Housing Administration (FHA), or Veterans Administration (VA) loans. Mortgage lenders or brokers must have a physical presence in Fulton County.

### **14.3 ELIGIBLE EXPENSES AND CLOSING COSTS**

Typical closing costs include, but are not limited to:

- ✓ lender fees (inclusive of points or interest rate buy-downs)
- ✓ lender required services
- ✓ attorney fees
- ✓ recording fees
- ✓ home inspection
- ✓ pest inspection
- ✓ septic inspection
- ✓ survey
- ✓ home warranty (1-year)
- ✓ homeowner’s insurance
- ✓ pre-paid or interim interest

- ✓ mortgage insurance
- ✓ title insurance

## 15.0 PREDATORY LENDING POLICY

---

Fulton County supports the expansion of affordable and equitable homeownership and recognizes that predatory lending practices are inconsistent with advancing homeownership. To discourage predatory lending practices, the County establishes this Anti-Predatory Lending Mortgage Policy.

A residential mortgage loan is ineligible for funding from Fulton County's HOP Program if it does not comply with all applicable federal, state and local predatory lending laws and other laws designed to prevent unfair or abusive lending practices (collectively, "Anti- Predatory Lending Laws"). Neither Fulton County, will knowingly fund a Mortgage Loan which involves any of the following practices or characteristics:

- Requiring the borrower to obtain prepaid, single-premium credit life, credit disability, credit unemployment, or other similar credit insurance as a condition of the loan;
- Including in loan documents a mandatory arbitration provision with respect to dispute resolution;
- Charging prepayment penalties for paying off a loan;
- Lending without regard to a borrower's ability to make payments on the mortgage;
- Loans which violate the Home Ownership and Equity Protection Act of 1994 and its implementing regulations (collectively, "HOEPA Requirements") or other Anti- Predatory Lending Laws;
- Loans that are ineligible for inclusion in a structured finance transaction due to a rating Owner/Developer's determination that it cannot rate a transaction which includes such loans;
- Loans where the terms of, or practices in connection with, such loans do not comply with the provisions of Regulation Z (12 CFR Part 226) relating to Higher-priced Mortgage Loans; or Loans that fail to comply with any requirement of the MPF Program relating to predatory lending, including with limitation, Section 2.6 of the MPF Origination Guide.

In addition, creative financing such as variable rate, adjustable rate, and interest rate only, balloon first mortgage loans, and/or 80/20 split are not allowed. Any practices deemed as predatory that are not listed above, are subject to review and approval by Program Staff. [\[Code of Federal Regulations 24 CFR §92.254\(f\)\]](#).

## 16.0 DECLINING ASSISTANCE

---

Every effort will be made to address issues well in advance of closing; however, the County's HOP Program reserves the right to postpone a scheduled closing date or deny program assistance due to any of the following circumstances:

- Falsification and/or alteration of documents
- Reported Housing Code violations that are not properly addressed
- Predatory loans and/or fees
- Incomplete/missing paperwork
- Scheduling conflicts
- Insufficient processing time allowed for program funding (check request)

- Not receiving prior approval on any required items/matters
- Other issues that conflict with program policy or federal regulations

## **17.0 LOAN POLICIES**

---

### **17.1 LOAN DEFAULT**

If during the HOP/HOME period of affordability any of the following events occur, a pro-rated portion of the loan is due and payable:

- Sale or transfer of the property,
- Change in owner-occupancy status, and/or
- Default of first mortgage.

### **17.2 SUBORDINATION/REFINANCING**

Applicant buyers may refinance but must contact HOP program staff before doing so. Consideration for loan subordination is subject to review and approval and is completed only when the new loan terms are reasonable. In order to subordinate the original loan agreement to the first lien holder, the following conditions must be met:

- The new senior first lien will reduce the monthly payments to the homeowner, thereby making the monthly payments more affordable;
- Reduction of the loan term;
- The new senior lien interest rate must be fixed for the life of the loan (Balloon or ARM loans are ineligible);
- No cash equity is withdrawn by the homeowner as a result of the refinancing actions;

The County will approve refinancing requests according to the following procedures:

- Borrower must submit a written request to the County to verify the minimum refinancing requirements within one month of the expected closing.
- The County will review the final HUD-1 Settlement Statement two weeks prior to closing the refinance.
- If applicable, the County will issue written approval one week prior to the closing date.
- The County will be provided with a copy of the final, executed HUD-1 Settlement Statement.
- If written permission is granted by the County allowing the refinance of the first mortgage, the Loan will become immediately due and payable prior to closing the refinance.
- If written permission is granted by the County and it is determined that the refinancing action does not meet the conditions for refinancing as stated above, the HOME loan will become immediately due and payable prior to closing the new senior loan.
- Home Equity loans will trigger the repayment requirements of the HOP Program recapturable assistance.
- The HOP Notes/Mortgage must be paid-in-full in order for the County to execute the release of a lien.

### **17.3 RECAPTURE PROVISION**

The down payment and closing costs assistance must be recaptured on an annual pro-rata

basis. 20% is forgiven/satisfied each year (following the first year), for the period of time the homeowner has owned and occupied the dwelling, which is measured against the required affordability period. Forgiveness is on an annual basis with no proration for partial years.

#### **17.4 NET PROCEEDS**

Recapture requires that all or a portion of the program funds provided to the homebuyer be recaptured from the net proceeds of the sale. Net proceeds are defined as the sales price minus loan repayment (other than HOP funds) and any closing costs. When recapture is triggered by foreclosure of the housing unit, and there are no net proceeds or the available net proceeds are insufficient to repay the HOME investment due, the County can only recapture the available net proceeds.

#### **17.5 LOAN ASSUMPTION**

Only heirs or devisees, in the event of the death or divorce of the applicant sole owner or both owners in entirety, may assume loans. Heirs or devisees may assume the existing or modified terms of a loan and pay any loan assumption fees. Under extenuating circumstances of personal hardship, the HOP staff may recommend an amendment to the loan terms.

#### **17.6 FORECLOSURE**

For those applicant buyers facing foreclosure but are actively working with a lender to restructure or refinance loan in order to remain in the home, the Fulton County HOP program must be notified and will assist only the original applicant buyer who is living in the unit at the time of the loan closing, with resources and discuss how this action will impact terms and conditions of program funding.