*** § 2405-d. Lease-to-own program.** (1) The agency is authorized to participate in lease-to-own programs as described in this section. The purpose of a lease-to-own program is to provide mortgage financing for a residence occupied as a primary residence by a prospective mortgagor pursuant to a lease-to-own contract with the owner of such property. The lease-to-own contract shall provide for the eventual purchase by the resident of the residence and an interim lease of the residence prior to the closing of the purchase thereof. The party to the lease-to-own contract who is the seller of the residence is referred to in this section as the "seller". The prospective purchaser who is a party to the lease-to-own contract is referred to in this section as the "tenant-purchaser". A "residence" for the purpose of this section is a single-family home, a condominium housing unit or a housing unit owned by a cooperative housing corporation.

(2) The agency may contract to acquire and may acquire a mortgage loan or loans made by a bank to a seller who has entered a lease-to-own contract with an eligible tenant-purchaser for the property which is the subject of and security for such mortgage loan.

(3) (a) The lease-to-own contract shall contain:

(i) a lease of the residence, or in the case of cooperative housing units a sublease, for a term not to exceed five years.

(ii) provision for a rental payment not less than the sum of (A) an amount sufficient to pay the estimated real property taxes and insurance on the residence, or in the case of a cooperative unit, the maintenance charges; (B) the cost of routine maintenance of the residence unless the lease-to-own contract requires the tenant-purchaser to perform such maintenance at his own expense; (C) an amount sufficient to pay the interest on the mortgage loan held by the agency on the residence less the estimated earnings on the escrow fund provided for in subdivision four of this section which is allocable to such mortgage held by the agency; (D) an amount to be held in escrow, referred to as the "tenant-purchaser escrow", which, when accumulated over the period of the lease-to-own contract, will amount to a sum sufficient to pay the tenant-purchaser's required down payment under the lease-to-own contract plus the estimated closing costs of purchase which will be allocable to the tenant-purchaser, including the seller's closing costs at the initial closing of the mortgage to the seller; and (E) in the case of a

condominium unit, common charges.

(iii) provisions obligating the tenant-purchaser to buy and the seller to sell the residence at the end of the lease term.

(iv) a provision under which the seller waives specific performance with respect to the tenant-purchaser's obligation to purchase.

(v) a provision that default by the tenant-purchaser under the provisions of the lease-to-own contract shall result in the forfeiture to the seller of all amounts in the tenant-purchaser escrow.

(vi) a provision that the tenant-purchaser shall have the option upon reasonable notice to the seller and the agency to elect to close the purchase of the residence at an earlier date than that specified in the lease-to-own contract.

(vii) a provision that the rent shall be adjusted under the lease-to-own contract periodically to take account of changes in taxes, insurance, escrow earnings and other variables intended to be covered by the tenant's rental payment.

(viii) a provision governing the consequences of default by each of the parties.

(b) The provisions of the emergency housing rent control law, the local emergency housing rent control act, the city rent and rehabilitation law, the emergency tenant protection act of nineteen seventy-four and the New York city rent stabilization law of nineteen hundred sixty-nine shall not apply to a residence subject to a lease-to-own mortgage, provided that the mortgage is purchased by the agency. Such exemption shall begin at the commencement of the lease term and shall endure for so long thereafter as the agency holds the mortgage loan. The agency shall not sell the mortgage loan prior to the closing of the transfer of title to the tenant-purchaser or default by the tenant-purchaser under the lease-to-own contract.

(c) The agency shall adopt procedures to ensure that the payments contemplated by subparagraph (ii) of paragraph (a) of this subdivision are in fact applied to those purposes.

(4) (a) The mortgage loan documents with respect to a mortgage loan acquired by the agency pursuant to this section shall provide that there shall be retained as additional security for the mortgage loan an amount not less than fifteen percent of the purchase price stated in the lease-to-own contract. The amount retained shall be disbursed in cash at

the mortgage closing to an escrow fund held by the owner of the mortgage. When the agency becomes the owner of the mortgage loan, the agency shall receive the escrow amount to be held by the agency in escrow. The escrowed funds may be invested by the agency in securities in which the agency is authorized to invest its own funds. All banks and trust companies are authorized to give such security for deposits by the agency of escrowed funds as determined by the agency. The escrow amounts pertaining to various lease-to-own mortgage loans may be commingled for investment purposes, but the agency shall keep books of account showing the amount to the credit of each individual escrow account. The investment earnings on each individual escrow account shall be credited to the interest payment on the applicable mortgage loan.

(b) The agency shall advise the seller at periodic convenient intervals of the amount of such earnings with respect to each mortgage loan.

(5) With the agency's approval, the lease-to-own contract may provide that, so long as the seller is not in default, in lieu of the establishment of a tenant-purchaser escrow account, that the portion of the tenant-purchaser's rental payments allocable to such an account may be received by the seller first as reimbursement of the seller's costs of closing of the initial mortgage to the seller and, second, to be credited to the purchase price of the premises.

(6) (a) At the closing of the transfer of title to the residence to the tenant-purchaser pursuant to the lease-to-own contract, the agency shall disburse the escrow amount to or for the account of the tenant-purchaser.

(b) At such closing, the agency shall require the tenant-purchaser to furnish private mortgage insurance if such insurance is required in the case of other mortgage loans under this title. If such insurance is not obtainable in the private market at the time of such closing, the agency is authorized to issue such insurance.

(7) The agency shall establish such requirements with regard to lease-to-own contracts, lease-to-own residences, the qualifications of tenant-purchasers, and the agency's participation in any lease-to-own program, as may be deemed appropriate by the agency to achieve the objectives of this section. The agency's requirements, including but not limited to income limits applicable to the tenant-purchaser and the

purchase price of the residence, must be satisfied at or before the time the mortgage loan is purchased, and the tenant-purchaser must be deemed qualified by the agency at the time.

(8) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the financing of any mortgage with respect to a lease-purchase residence, such restrictions upon assumability of the mortgage, default provisions, rights to accelerate, and other terms as the agency may determine to be necessary or desirable. All such terms shall be enforceable by the originating bank, the agency, and any successor holder of the mortgage unless expressly waived in writing by or on behalf of the agency.

(9) The provisions of this section shall expire and be of no further force and effect on and after July first, nineteen hundred ninety-five.

* NB Expired July 1, 1995