POLICY WHITE PAPER · HOMEOWNERSHIP SERIES

A Better Approach to Long-Term Affordability in Proposition 123 Homeownership

Colorado's communities are not all alike. The tools that protect long-term affordability shouldn't be either.

At a Glance

- **Today, one tool fits all.** Proposition 123 homeownership projects must use a resale restriction, and DOH mandates its own specific deed restriction.
- **That tool doesn't fit every market.** In many communities, a repayment agreement better protects both the public investment and the homeowner.
- **Flexibility doesn't mean less oversight.** A State-defined menu of options, like the federal HOME program's, would require local partners to show their work.
- **Our ask:** allow repayment agreements, allow flexibility in resale restrictions, require demonstrated local capacity, and support peer training.

The Issue

Proposition 123 supports affordable homeownership through project-based development grants and through the Revolving Loan Fund. Both the Colorado Division of Housing (DOH) and the Colorado Housing and Finance Authority (CHFA), which administers Proposition 123 funds for the Office of Economic Development and International Trade (OEDIT), currently require a deed restriction or other resale restriction to protect long-term affordability in the homes they fund.

The DOH requirement is especially rigid: it mandates one specific deed restriction that is incompatible with many markets and mission goals. **The State agencies administering Proposition 123 homeownership funds should amend their policies to allow more flexibility.**

Contact: Emilee Powell, Executive Director · emileep@hrwco.org · 970-773-9738
AI Disclaimer: The content of this paper was created by Housing Resources staff. We used Claude to create the format, to correct writing mistakes, and to suggest edits.

The Basics of Long-Term Affordability

Every affordable homeownership program includes long-term affordability provisions. They are designed to preserve the impact of the public subsidy and to prevent buyers from reselling the home quickly for a windfall profit. There are two basic approaches: **resale restrictions** and **repayment agreements** (also called recapture provisions).

	Resale Restriction	Repayment Agreement
Protects	**The unit.** The home itself is restricted as future affordable housing.	**The subsidy.** The public dollars are restricted for future use.
How it works	Home sells below market value, with limits on future resale.	Buyer repays the assistance when they sell or refinance; funds go to the next buyer.
Future buyers	Usually must meet the same income limits as the first buyer and have to buy that particular home.	Usually meet the same income limits as the first buyer and can choose the same home or a different one.
Resale price	Often set by a formula.	Set by the market.
Repayment terms	Not applicable	The original amount, the amount plus a growth factor, or the amount minus a forgiven portion.
Occupancy	Typically requires ongoing owner-occupancy (no conversion to rental).	Typically requires ongoing owner-occupancy (no conversion to rental).
Common forms	Deed restrictions, community land trusts, land use restriction agreements	Down payment assistance loans, shared appreciation mortgages

Contact: Emilee Powell, Executive Director · emileep@hrwco.org · 970-773-9738
AI Disclaimer: The content of this paper was created by Housing Resources staff. We used Claude to create the format, to correct writing mistakes, and to suggest edits.

Customizing either approach

Many variations can be layered onto either approach, allowing local governments and partners to tailor a program to their mission and their market. They include:

Who can buy and live there

- → Owner-occupancy requirement
- → Local employment requirements
- → Asset tests
- → Affordability time period

Price and equity

- → Resale price formulas
- → Appreciation sharing
- → Capital improvement credits
- → Fair return promise

Ongoing administration

- → Right of first purchase
- → Maintenance requirements
- → Annual compliance
- → Resale and compliance fees

Problems with Current Policy

Both DOH and CHFA require a resale restriction on homeownership projects funded by Proposition 123. DOH goes further, mandating a specific form of deed restriction that sets the resale price formula and the affordability period. **Repayment agreements are not allowed** in Proposition 123–funded development projects.

The result is that Colorado's homeownership partners can't design long-term affordability provisions that fit their communities. The right tool depends on the market:

BEST FIT: RESALE RESTRICTION	OFTEN BEST: REPAYMENT AGREEMENT	BEST FIT: RESALE RESTRICTION
Hyperinflated markets	**Most other markets**	**Inverted markets**
e.g., mountain resort towns, where keeping control of the physical housing stock is paramount	especially programs focused on asset-building, in markets that haven't reached a hyperinflation tipping point	where construction costs exceed appraised value, so the home's value can't support repayment

Problem 1: Resale restrictions are mandated, and repayment agreements are not allowed

In many markets, resale restrictions are not the best choice. Common concerns include:

- → **Risk and reward are mismatched.** The owner takes on the risks of homeownership but gives up appreciation, often more than the value of the subsidy they received.
- → **Resale prices are unpredictable.** Formula prices tied to factors such as HUD income limits and interest rates can shift in ways that force owners to sell at a loss.

Contact: Emilee Powell, Executive Director · emileep@hrwco.org · 970-773-9738

AI Disclaimer: The content of this paper was created by Housing Resources staff. We used Claude to create the format, to correct writing mistakes, and to suggest edits.

- **Upkeep is discouraged.** Owners have little incentive to maintain or improve the home, and the compliance rules created to counter this are cumbersome.
- **They are poorly understood.** Future buyers, agents, lenders, and title companies often don't understand them, which can lead to noncompliant resales.
- **Financing can suffer.** Possible conflicts with Fannie Mae and Freddie Mac guidelines make quality financing harder to secure.
- **Buyers have fewer choices.** Only specific homes are designated as affordable.

Repayment agreements are a better option in many markets because they are flexible, efficient, well-recognized by industry professionals, and compliant with mortgage industry standards. Yet partners using Proposition 123 funds in their projects cannot use them.

Problem 2: Resale restrictions themselves are inflexible

Where resale restrictions are the right choice, local partners still need room to design them. These are typically the markets at opposite extremes:

- **Hyperinflated markets,** such as mountain resort towns, use resale restrictions because keeping control of the physical housing stock is paramount. Many of these towns have run successful resale restriction programs for years and now find those programs preempted by the DOH-mandated deed restriction.
- **Inverted markets,** where construction costs exceed the home's appraised value, often use resale restrictions because the home's value can't support a repayment agreement. These programs may prioritize goals such as local employment rather than income limits, but the State's mandated version preempts that local control as well.

Local governments and partners should have the flexibility to design a resale restriction that fits their local needs and mission goals.

It's hard to imagine the same tool working in both Pitkin County, with a median home value of $1,139,100, and Crowley County, at $116,200.

Contact: Emilee Powell, Executive Director · emileep@hrwco.org · 970-773-9738
AI Disclaimer: The content of this paper was created by Housing Resources staff. We used Claude to create the format, to correct writing mistakes, and to suggest edits.

Our Recommendations

Colorado's housing agencies should allow more flexibility in long-term affordability provisions for projects supported by Proposition 123 funds, letting partners choose either a resale restriction or a repayment agreement and customize it within broad parameters.

1

Allow repayment agreements in development grant contracts

Let partners choose a repayment agreement instead of a resale restriction where it better fits the market and mission.

2

Allow more flexibility in resale restrictions

Let partners customize resale restrictions within broad, State-defined parameters rather than adopting one mandated deed restriction.

3

Require partners to demonstrate local capacity

Ask partners to show they can administer and monitor the long-term affordability provisions they choose.

4

Support peer training

Fund opportunities that help community leaders and policymakers understand the complicated trade-offs in program design.

Flexibility doesn't mean less oversight

The State can and should define a **menu of acceptable options** and a **list of criteria** that every local program must address. The federal HOME program has used this menu approach successfully for decades.

This would likely do a better job of demonstrating local understanding and capacity than today's approach. Rather than simply adopting a predetermined template, local programs would have to show that they have thought through their policy choices and explain why they made them.

READ MORE → *Recommendations to Improve Colorado's Affordable Homeownership Strategy*

Contact: Emilee Powell, Executive Director · emileep@hrwco.org · 970-773-9738

AI Disclaimer: The content of this paper was created by Housing Resources staff. We used Claude to create the format, to correct writing mistakes, and to suggest edits.

About Housing Resources of Western Colorado

Housing Resources of Western Colorado is a nonprofit organization headquartered in Grand Junction, Colorado, with 50 years of service to Colorado residents. We serve renters, homebuyers, and homeowners across a 16-county region. Our award-winning Path to Homeownership program, launched in 2023, has helped **more than 120 first-time homebuyers** purchase a home that was right for them.

Housing Resources is a HUD-approved housing counseling agency, a Community Housing Development Organization (CHDO), a chartered member of the NeighborWorks America network, and an emerging Community Development Financial Institution (CDFI).

Our lines of business

Weatherization · Housing Counseling & Education · Home Purchase Lending · Home Improvement Lending · Affordable Rental Property Management · Real Estate Development

Contact: Emilee Powell, Executive Director · emileep@hrwco.org · 970-773-9738

AI Disclaimer: The content of this paper was created by Housing Resources staff. We used Claude to create the format, to correct writing mistakes, and to suggest edits.