

CHAPTER 14

NEIGHBORHOOD PRESERVATION BALANCED HOUSING PROGRAM

Authority

N.J.S.A. 52:27D-320.

Source and Effective Date

R.1990 d.604, effective November 9, 1990.
See: 22 N.J.R. 1700(b).

Executive Order No. 66(1978) Expiration Date

Chapter 14, Neighborhood Preservation Balanced Housing Program, expires on November 9, 1995.

Chapter Historical Note

Chapter 14, formerly titled Demonstration Rent Supplement Program, was filed as R.1970 d.26, effective April 1, 1970. See: 2 N.J.R. 1(a), 2 N.J.R. 30(c). Chapter 14 was repealed by R.1978 d.360, effective October 6, 1978. See: 10 N.J.R. 377(a), 10 N.J.R. 470(a). Chapter 14, Neighborhood Preservation Balanced Housing Program, was adopted by R.1985 d.688. See: 17 N.J.R. 2489(a), 18 N.J.R. 162(a). Subchapter 4, Affordability Controls, was adopted by R.1989 d.588, effective December 4, 1989. See: 21 N.J.R. 2153(a), 21 N.J.R. 3740(b). Pursuant to Executive Order No. 66(1978), Chapter 14 was readopted as R.1990 d.604. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:14-1.1 Purpose

The purpose of the Neighborhood Preservation Balanced Housing Program shall be to assist in the delivery of housing affordable to low and moderate income households in viable neighborhoods in fulfillment of Section 20 of the Fair Housing Act of 1985. Consistent with the Act, a substantial percentage of Program awards shall be made to projects and programs in those municipalities receiving State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.).

Amended by R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).
NPBHP assists in delivery of services.

5:14-1.2 Eligible applicants

(a) Municipal governments shall be the only eligible applicants to the Neighborhood Preservation Balanced Housing Program.

(b) Applications shall only be accepted from municipalities meeting at least one of the following criteria:

1. The municipality has petitioned the Council on Affordable Housing for substantive certification;
2. The municipality has received substantive certification from the Council on Affordable Housing;
3. The municipality has entered into a judicially-approved compliance agreement to settle its fair share housing obligation;
4. The municipality is subject to a court-ordered builder's remedy;
5. The municipality has been designated as a receiving municipality under a regional contribution agreement and project plan approved by the Council on Affordable Housing; or

6. The municipality has, at any time since Fiscal Year 1988, been eligible to receive State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.).

(c) Prior to July 1, 1989, the Department shall grant absolute funding priority to municipalities meeting one or more of the criteria set forth in (b)1 through 6 above.

Amended by R.1989 d.143, effective March 20, 1989.

See: 21 N.J.R. 3(a), 21 N.J.R. 750(a).

(b) and (c) added; established application and funding criteria for on or after July 1, 1989.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

References to July 1, 1989 deleted.

5:14-1.3 Eligible activities

(a) Eligible activities shall include those activities listed below:

1. Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income households;

2. Creation of accessory apartments to be occupied by low and moderate income households;

3. Conversion of nonresidential space to residential purposes provided more than 20 percent of the resulting housing units are to be occupied by low and moderate income households;

4. Acquisition of real property; demolition and removal of buildings; or construction of new housing that will be occupied by low and moderate income households, or any combination thereof;

5. Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans and permits, engineering, architectural and other technical services, cost of land acquisition and any buildings thereon, and cost of site preparation, demolition and infrastructure development for projects undertaken pursuant to an approved regional contribution agreement;

6. Assistance to a local housing authority, nonprofit or limited dividend housing corporation or association for rehabilitation or restoration of housing units which it administers which:

- i. Are unusable or in a serious state of disrepair;
- ii. Can be restored in an economically feasible and sound manner; and
- iii. Can be retained in a safe, decent and sanitary manner, upon completion of rehabilitation or restoration; and

7. Other housing programs for low and moderate income housing including infrastructure projects directly facilitating the construction of low and moderate income housing not to exceed a reasonable percentage of the construction costs of the low and moderate income housing to be provided.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

References to "substantial percentage" deleted.

5:14-1.4 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Affordable" means capable of being afforded without undue burden by an eligible household. A rental unit shall be considered "affordable" if the monthly rent, including utilities, does not exceed 30 percent of an eligible household's income. Homeowner units shall be considered "affordable" if the monthly carrying costs, including principal and interest (based on a mortgage equal to 95 percent of the purchase price), taxes, insurance and condominium fees, do not exceed 28 percent of an eligible household's income. In calculating the affordability of both homeowner and rental units the following occupancy is assumed: a studio is occupied by a one person household; a one bedroom unit is occupied by a one and one-half person household; a two bedroom unit is occupied by a three person household; a three bedroom unit is occupied by a four and one-half person household; and a four bedroom unit is occupied by a six person household.

"Balanced Housing units" means those units within a project receiving Balanced Housing funds which are subject to affordability controls in accordance with N.J.A.C. 5:14-4 or a mortgage in accordance with N.J.A.C. 5:14-4, regardless of whether such controls or mortgages are waived or modified.

"Division" means the Division of Housing and Development in the Department of Community Affairs.

"Eligible household" means a low or moderate income household.

"Eligible neighborhood" means a neighborhood that will be viable, as defined by N.J.S.A. 52:27D-143 et seq. (P.L. 1975, c.248), the maintenance of Viable Neighborhoods Act, after the implementation of the proposed project.

"Equity" means the total development cost minus the sum of public subsidies, such subsidies including, without limitation, low income housing tax credits, and loans secured by the project.

"Low income household" means a household whose gross annual earnings are not more than 50 percent of the median income as adjusted by geographic region and family size in accordance with HUD Section 8 Income Guidelines or N.J.A.C. 5:92. (Where variation occurs, N.J.A.C. 5:92 shall govern.)

"Moderate income household" means a household whose gross annual earnings are greater than 50 percent and less than 80 percent of the median income as adjusted by geographic region and family size in accordance with HUD Section 8 Income Guidelines or N.J.A.C. 5:92. (Where variation occurs, N.J.A.C. 5:92 shall govern.)

"Moderate rehabilitation" means any rehabilitation costing less than 50 percent of the physical value of the unit.

"Neighborhood" means an area which is recognized as a distinct entity by virtue of certain factors, such as: definite boundaries, natural or man-made; history; architecture; facilities which attract people within a certain radius; or a shared sense of identity or social cohesion. This definition is equally applicable to neighborhoods in urban, suburban, and rural communities.

"New unit" means any unit that has been constructed, substantially rehabilitated or created through the conversion of a non-residential building within the three years preceding submission of an application, meets all applicable code requirements and has not been occupied since the time of its construction or rehabilitation.

"Physical value" means the current replacement cost of a structure as calculated using the latest edition of the "Building Valuation Data Report", incorporated herein by reference, as amended and supplemented, published by BOCA International, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795.

"Range of affordability" means the household income, expressed as a percentage of the median income, at which a given unit is affordable.

"Senior citizen" means any person age 62 years or older.

"Single room occupancy unit (SRO)" means a unit within a structure in which households maintain private rooms yet share kitchen and plumbing facilities, central heat and common areas.

"Substandard" means when used to characterize a structure or dwelling unit, that the local construction official has certified that health and safety code violations exist and that, in order to abate those violations, one or more of the following major systems must be replaced or extensively repaired: roof, electrical, plumbing, sanitary plumbing, heating, or load-bearing structural systems.

"Substantial rehabilitation" means any rehabilitation of a housing unit which will both cost more than 50 percent of the physical value of the unit and result in the entire structure in which that unit is located being brought into compliance with the provisions of the State Uniform Construction Code (N.J.S.A. 52:27D-119 et seq., N.J.A.C. 5:23 and the adopted subcodes) applicable to newly-constructed units.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Definitions for affordable, balanced housing units, Division, eligible household, eligible neighborhood, equity, moderate rehabilitation, neighborhood, new unit, physical value, range of affordability, senior citizen, single room occupancy (SRO), substandard, and substantial rehabilitation added; housing region deleted; low and moderate income households amended.

5:14-1.5 Waiver

Any applicant desiring a waiver or release from the express requirements of any provision of this chapter may make such request, in writing, to the Division. A waiver shall be granted only by the Division Director in writing and then only when such waiver does not contravene the provisions of the Fair Housing Act. The decision of the Division Director shall be final.

New Rule R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-1.6 (Reserved)

SUBCHAPTER 2. FUNDING

5:14-2.1 Funding cycles and application procedures

(a) With the exception of applications for Neighborhood Rehabilitation, the Department shall accept applications on a continuous basis.

(b) The Department shall hold one competitive cycle each year for Neighborhood Rehabilitation projects. Notice for the competitive cycle shall be provided to each eligible applicant.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Original text deleted; new text added, establishing competitive cycle for Neighborhood Rehab only.

5:14-2.2 Priorities

(a) In general, projects shall be funded in the order in which they are ready to go to contract.

(b) In the event that funds are limited, the following priority system shall be used in order to evaluate projects.

1. First priority shall be given to:
 - i. New or acquired units for the handicapped, either independent or group homes;
 - ii. New rental family units in urban aid municipalities and units produced by public housing authorities, except for replacement public housing units; and
 - iii. Single Room Occupancy Projects.
2. Second priority shall be given to:

- i. New rental family units in non-urban aid municipalities; and
 - ii. New for-sale family units in urban aid municipalities.
3. Third priority shall be given to:
- i. New for-sale family units in non-urban aid municipalities;
 - ii. Landlord projects with private not-for-profit sponsors, with the exception of projects financed with HUD loans; and
 - iii. Acquisition/rehabilitation projects.
4. Fourth priority shall be given to rental and for-sale senior citizen projects, including HUD 202 senior citizen projects;
5. Fifth priority shall be given to:
- i. Replacement public housing units;
 - ii. Landlord projects with private sponsors and public not-for-profit sponsors and projects financed with HUD loans; and
 - iii. Inclusionary developments in which Balanced Housing funds are used to lower the range of affordability.

(c) Additionally, the following evaluation criteria shall be considered in reviewing applications for funding:

- 1. Whether the project will assist the municipality in providing the affordable housing units specified in its plan which has been substantively certified by the Council on Affordable Housing or in a judicially approved compliance agreement;
- 2. Whether there is any other source of funds which can be used to undertake this activity. The Department expects the applicant to use all possible resources and non-Balanced Housing subsidies;
- 3. Whether the project will be achieved without Balanced Housing funds;
- 4. Whether funding this project is in keeping with allocating funds in accordance with regional need as determined by the Council on Affordable Housing; and
- 5. Whether affordability controls for the project will be in place for a longer period than required by N.J.A.C. 5:14-4.

(d) Balanced Housing funds shall not be used to convert public housing units to homeownership.

(e) The following criteria shall be favorably considered in evaluating applications for Neighborhood Rehabilitation projects:

- 1. Indication of community support as evidenced by:

- i. Intent to develop an in-house community development capacity, if appropriate; and
 - ii. Dedication of funds for housing construction beyond the program's matching requirement.
2. The existence of an active, systematic code enforcement program;
3. In ongoing programs, a backlog of applicants evidencing need for additional funding;
4. The use of Balanced Housing funds to support the activities of a Neighborhood Preservation Program or Small Cities Program or used in neighborhoods where rehabilitation is needed to support another Balanced Housing project;
5. The existence of extensive indigenous need; and
6. Clear evidence of need as demonstrated by placement on the Municipal Distress Index.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-2.3 Allocation of funds

(a) Until March 31 of each fiscal year, 60 percent of the funds available for that fiscal year shall be reserved for projects in priorities one and two; 15 percent shall be reserved for projects in priorities three and four; and five percent shall be reserved for projects in priority five. Five percent shall be reserved for amendments to existing contracts. Fifteen percent, but not to exceed \$2.5 million, will be set aside for Neighborhood Rehabilitation.

(b) Funds not allocated by March 31 shall be available for projects in any category.

(c) All Balanced Housing funds shall be allocated to municipalities on behalf of specific projects. In the event that the project does not proceed, the funds shall be reallocated by the Department in accordance with existing funding priorities and conditions regardless of the original applicant, developer or geographic region.

(d) In order to maximize the distribution of funds, the Commissioner may limit the maximum amount of funding in any one municipality.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

SUBCHAPTER 3. FUNDING CRITERIA

5:14-3.1 General provisions

(a) Successful applicants to the Neighborhood Preservation Balanced Housing Program shall be invited to enter into a grant agreement with the Department. Except as otherwise set forth in this chapter, the successful applicant and the Department shall be bound solely by the terms and conditions of any such agreement.

(b) All projects proposed for funding must be in an eligible neighborhood. Municipalities with an indigenous need of 30 units or less may, for the purpose of a Neighborhood Rehabilitation application, designate the entire municipality.

(c) Applicants to the Balanced Housing Program shall be required to demonstrate their ability, both administrative and financial, to carry out the proposed project.

1. The qualifications of key participants, including the sponsor/developer, consultant, administering agent and the municipality, will be examined. Failure to perform by any of those participants in past contracts with the Department may be grounds for disqualifying an application.

(d) At least 50 percent of the low and moderate income units to be funded shall be affordable to low income households. The following are exempt from this requirement:

1. Homeownership projects which are part of a 100 percent affordable development; and
2. Neighborhood Rehabilitation Projects funded in municipalities with an indigenous need of 30 or less.

(e) With the exception of owner-occupied units funded through Neighborhood Rehabilitation Projects, units funded through the Balanced Housing Program must remain affordable for 10 years in municipalities listed in Appendix A to this chapter or 20 years in all other municipalities.

(f) If a sponsor/developer is undertaking substantial rehabilitation and one or more of the units is currently occupied, the occupied unit(s) shall be eligible only if the household occupying the unit is certified to be income eligible. If any current occupants will be relocated, this action must be completed in accordance with an approved Workable Relocation Assistance Plan (WRAP), pursuant to N.J.S.A. 20:4-1 et seq. and N.J.S.A. 52:31B-1 et seq.

(g) The methodology for determining the maximum Balanced Housing subsidy is explained in N.J.A.C. 5:14-3.3 through 3.12 for each type of project, with each project type description. Notwithstanding such provisions, the Department may, at its discretion, award less than the maximum subsidy, structure the assistance as a loan, with or without interest, or provide additional assistance for short term financing, including construction and/or bridge loans, if needed, to ensure project feasibility.

(h) The amount of Balanced Housing funds reserved for a project shall be based on the information provided in the application and shall fund only the gap between project cost and other revenue. The developer must submit a detailed cost break out and, upon completion of construction and prior to project close out, cost certification by a certified public accountant.

1. Balanced Housing funding shall not be used as a substitute for private financing where the latter is feasible and attainable.

2. If a proposed project is located in a municipality not listed in Appendix A and is to be undertaken by a for-profit developer, the Department's subsidy shall be based upon the number of units representing an increase above 20 percent affordable units or the number of units negotiated by the municipality and the developer, whichever is greater; and/or the subsidy required to lower the range of affordability below that which is eligible for credit by the Council on Affordable Housing.

(i) In all instances, Balanced Housing funds shall be awarded to the municipality as a grant. With the exception of Neighborhood Rehabilitation and Landlord Projects, Balanced Housing funds for a rental unit shall be provided to the developer in the form of a loan. All such loans shall be repayable to the Department. All terms and conditions of the loan agreement shall be subject to approval by the Department.

(j) The maximum interest rate shall be equal to the yield on a 30 year Treasury bond at the time of commitment.

(k) (Reserved)

(l) (Reserved)

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Text on threshold criteria deleted; text on general provisions added.

5:14-3.2 Types of projects

(a) The Department shall only fund projects falling into at least one of the following categories, which are further described in N.J.A.C. 5:14-3.3 through 3.12:

1. Permanent Housing for the Handicapped Projects;
2. Rental Projects;
3. Purchase/Rental Projects;
4. Single Room Occupancy Projects;
5. Homeownership Projects;
6. Acquisition/Rehabilitation Projects;
7. Section 202 and Public Housing New Construction Projects;
8. Neighborhood Rehabilitation Projects;
9. Landlord Projects; and
10. Discretionary/Demonstration Projects.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Text on competitive criteria deleted; text on types of projects added.

5:14-3.3 Permanent Housing for the Handicapped Projects

(a) The Balanced Housing Program may provide funding for the construction, substantial rehabilitation or conversion of units that will provide permanent housing for income-eligible handicapped persons.

1. Eligible projects must qualify for credit from the Council on Affordable Housing.

2. Eligible projects may include, but are not limited to, residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congrate living arrangements.

(b) In such projects, the form and amount of Balanced Housing assistance shall be at the discretion of the Department, but shall not exceed that amount which is provided by other public and private funding sources (that is, 50 percent of total project cost).

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.4 Rental Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants for use by for-profit or not-for-profit housing sponsors who provide new rental housing units for occupancy by low and moderate income households. Eligible activities shall include new construction, substantial rehabilitation and the conversion of non-residential structures.

(b) The average range of affordability for the units funded shall not exceed 57.5 percent.

(c) The maximum allowable subsidy for a rental project shall be determined in accordance with Appendix C to this chapter, incorporated herein by reference.

(d) Applicants for rental projects shall demonstrate control of the project site, whether by holding title, by a sales contract, by an option to purchase or by any other means that the Department may approve.

(e) Applicants may combine a rental project with a homeownership project.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.5 Purchase/Rental Projects

(a) The Balanced Housing Program may provide assistance to applicants on behalf of not-for-profit sponsors for the purpose of acquiring new units and maintaining them as rental units for occupancy by low and moderate income households. Balanced Housing funds shall be provided to the project at the time of purchase in order to reduce the amount of the permanent mortgage.

(b) The average range of affordability for the units funded may not exceed 57.5 percent.

(c) The maximum allowable subsidy for a purchase/rental project shall be determined in accordance with Appendix C.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.6 Single Room Occupancy Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants for use by for-profit or not-for-profit housing sponsors who provide new single room occupancy units for low and moderate income households. Eligible activities include new construction, substantial rehabilitation and the conversion of nonresidential structures.

(b) The average range of affordability for units funded may not exceed 57.5 percent.

(c) The maximum allowable subsidy for a Single Room Occupancy Project shall be determined in accordance with Appendix C.

(d) Applicants must demonstrate control of the project site, whether by holding title, by a sales contract, by an option to purchase or by any other means which the Department may approve.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.7 Homeownership Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants for use by for-profit and not-for-profit housing sponsors who provide homeownership opportunities to low and moderate income households through new construction, substantial rehabilitation or the conversion of nonresidential structures.

1. The buy-down of new units off the open market in order to make them affordable is also eligible.

(b) Qualifying units must be new and must be sold at affordable prices.

(c) The average range of affordability for the units funded may not exceed 57.5 percent.

(d) Condominium and cooperative as well as fee simple ownership forms are eligible.

(e) The maximum subsidy for homeownership projects shall be determined in accordance with Appendix B to this chapter, incorporated herein by reference.

(f) Applicants must demonstrate control of the project site, whether by holding title, by a sales contract, by an option to purchase or by any other means that the Department may approve.

(g) Applicants may combine a homeownership project with a rental project.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.8 Acquisition/Rehabilitation Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants for use by not-for-profit sponsors wishing to acquire or acquire and moderately rehabilitate existing, vacant housing for occupancy by low and moderate income households. Occupancy may be either rental or homeownership as long as the unit is affordable. Units acquired up to two years prior to the application that are substandard at the time of application are eligible.

(b) The maximum Balanced Housing subsidy for an Acquisition/Rehabilitation Project shall be \$10,000 for a one bedroom unit and \$2,500 for each additional bedroom, plus \$5,000 per unit if the household to be served is handicapped and the unit is or will be made handicapped accessible.

(c) All units assisted must be vacant at the time of acquisition. The Division may waive this requirement if the population to be served is a senior citizen, handicapped or single-parent household or if the applicant can demonstrate that this project will prevent the imminent loss of affordable units and the displacement of low and moderate income households. Condominium conversion is not, in and of itself, considered evidence of imminent loss.

(d) Upon occupancy, units must meet HUD Section 8 Housing Quality Standards, incorporated herein by reference, as amended and supplemented, available from the Department of Housing and Urban Development, 451 Seventh St. SW, Washington, D.C. 20410, or any applicable State or local housing code that is more stringent. The sponsor need not identify specific buildings when applying for funds but should identify a neighborhood or group of buildings.

(e) Except as noted in (c) above, the acquisition or acquisition and rehabilitation of units that are already in standard condition and affordable to low and moderate income households shall only be permitted insofar as the proposed activity will lower the range of affordability.

(f) Sponsors of rental projects shall be required to demonstrate ongoing management capacity and financial feasibility of the project for the length of the control period.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.9 Section 202 and Public Housing New Construction Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants applying on behalf of public housing authorities and not-for-profit sponsors to construct

Federal Section 202 projects and public housing new construction projects as authorized by the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.). These grants are subject to the following limitations:

1. The total Balanced Housing subsidy shall not exceed 15 percent of the total project cost;
2. The improvements shall be reasonable and functional and shall benefit the residents of the project; and
3. The improvements to be funded by Balanced Housing shall either be prohibited by the HUD cost containment policy or add to the project cost beyond the amount that can be supported by the HUD loan.

(b) Eligible Balanced Housing costs include the following: outdoor lighting, access roads, land, air conditioning, sprinkler systems, on and off-site improvements, intercoms, and directly related "soft" costs, such as fees for professional and financial services, within standard underwriting limits, landscaping to buffer the building, and improvements required by applicable municipal codes that are more strict than required by the State, provided that a responsible municipal official submits an adequate written justification.

1. Cosmetic and facade improvements, and improvements made solely for the purpose of allaying public opposition or to improve the esthetics of the surrounding neighborhood, are ineligible.

(c) Applications for a Section 202 or Public Housing New Construction Project must include a conditional or final commitment from HUD.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.10 Neighborhood Rehabilitation Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants to identify and moderately rehabilitate substandard units in one-to-four family owner occupied structures within a specified eligible neighborhood.

(b) Municipal funds shall be committed to implement a Neighborhood Rehabilitation Project as follows:

1. For municipalities that rank in the first 40 percent of the Municipal Distress Index published and revised periodically by the New Jersey Department of the Treasury, Office of Management and Budget (municipalities ranked 1-227), and municipalities eligible to receive State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.), no commitment of funds is required.

2. For municipalities that rank from 41 percent to 70 percent on the Municipal Distress Index (ranked 228-397), and that are not eligible for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.), one non-Balanced Housing dollar shall be committed to match every two Balanced Housing dollars.

3. For municipalities that rank from 71 percent to 100 percent on the Municipal Distress Index (ranked 398-567), one non-Balanced Housing dollar must be committed to match every Balanced Housing dollar.

(c) Funds committed as matching funds shall be either local revenues or derived from non-State grants received by the municipality. Commitments from homeowners or from lending institutions to provide home improvement loans do not qualify.

(d) Municipal funds committed as matching funds must be used to pay actual costs of administration and/or rehabilitation in the project. Ancillary services, improvement of the target area (such as roads and sewers) and "soft" costs, such as fees for professional and financial services, do not qualify.

(e) Matching funds shall be subject to the requirements of this subchapter, except that any such funds provided as direct assistance to homeowners may carry a lower interest rate and/or a shorter term. Matching funds provided as loans to homeowners shall be subordinate to the Balanced Housing loan.

(f) The maximum Balanced Housing grant to a municipality under a Neighborhood Rehabilitation Agreement shall be the least of \$300,000 for continuing Neighborhood Rehabilitation projects or \$240,000 for first year projects or \$15,000 times the number of units to be rehabilitated. Of that amount, the municipality may use the lesser of 16 percent or \$1,920 per unit to administer the program.

1. For municipalities not required to provide matching funds, the maximum grant shall be the least of \$300,000 for continuing Neighborhood Rehabilitation projects or \$240,000 for first year projects or \$15,000 times the number of units to be rehabilitated.

2. For municipalities required to provide a match of one non-Balanced Housing dollar for every two Balanced Housing dollars, the maximum Balanced Housing grant shall be \$200,000 for continuing Neighborhood Rehabilitation projects or \$160,000 for first year projects.

3. For municipalities required to provide a match of the non-Balanced Housing dollar for every Balanced Housing dollar, the maximum grant shall be \$150,000 for continuing Neighborhood Rehabilitation projects or \$120,000 for first year projects.

(g) Applicants shall demonstrate to the satisfaction of the Division the existence of an active, systematic code enforcement program or a commitment to establish one within 90 days of the start date of a Balanced Housing contract.

(h) The following shall apply to municipalities administering a Neighborhood Rehabilitation Project:

1. Neighborhood Rehabilitation assistance is limited to one-to-four unit, owner-occupied structures; and

2. No Balanced Housing assistance shall be provided to occupied housing units unless the occupants have been certified as low or moderate income.

(i) In cases where a two-to-four unit structure is rehabilitated with Balanced Housing funds, and one or more of the units is not assisted with Balanced Housing or required matching funds, a percentage of the cost of common area and system wide improvements equal to the percentage of unassisted units shall be paid by the owner. If the structure is owner-occupied and the owner can demonstrate extreme financial hardship, the Division may modify or waive this requirement.

(j) The maximum Balanced Housing Program assistance to any one unit shall not exceed the following:

1. For owner-occupied units, \$18,000; or

2. For renter-occupied units, the lesser of \$10,000 or 75 percent of the rehabilitation cost; except that, if an owner can demonstrate extreme financial hardship, the Division may waive or modify the requirement to match funds for rental units.

(k) The local construction official or licensed housing inspector must certify that each unit to be rehabilitated with Balanced Housing funds is substandard, that is, that health and safety code violations exist, and that abating those code violations requires that one or more of the following major systems be replaced or extensively repaired: roof, electrical, plumbing, sanitary plumbing, heating or load bearing structural systems.

(l) Any structure repaired in whole or in part with Balanced Housing funds must, upon completion, be certified by the local construction official or other public official having jurisdiction to be free of code violations in accordance with the HUD Section 8 Housing Quality Standards or any applicable State or local housing code that is more stringent.

(m) Balanced Housing funds may be used only for work and repairs required to make a unit standard and any other work or repairs (including finishing and painting) that is directly related to the required activities. Improvements that are strictly cosmetic, and the purchase of free-standing appliances (including refrigerators, but not including stoves) with Balanced Housing funds, are prohibited.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.11 Landlord Projects

(a) The Balanced Housing Program may provide assistance to eligible applicants for use by one or more landlords in the moderate rehabilitation of their units affordable to low and moderate income households.

(b) The maximum Balanced Housing grant to a municipality for a Landlord Project provided on behalf of a for-profit landlord shall be \$7,500 multiplied by the number of units to be rehabilitated, not to exceed a total of \$250,000, except as specified in (e) below. The for-profit landlord shall match Balanced Housing dollars on a one to one basis.

(c) The maximum Balanced Housing grant to a municipality for a Landlord Project provided on behalf of a not-for-profit landlord shall be \$10,000 multiplied by the number of units to be rehabilitated, not to exceed a total of \$300,000, except as specified in (e) below.

(d) Housing Authorities may qualify as not-for-profit owners, but must demonstrate that they are in good standing with HUD and that insufficient Comprehensive Improvement Assistance Program (C.I.A.P.) funding is available to complete this project.

(e) In cases where a landlord is rehabilitating a single building and rehabilitation on a smaller scale is not practical, the maximum grant may be exceeded to equal the sum of the per unit subsidies.

(f) All units to be rehabilitated must be identified prior to a funding commitment from the Department.

(g) The following shall apply to all Balanced Housing Landlord Project grant agreements:

1. The owner must agree to maintain the units in standard condition for the life of the affordability controls. Units with violations must be repaired at the owner's expense;
2. The municipality must agree to recertify the units as standard at regular intervals of two years or less; and
3. For units in municipalities not listed in Appendix A to this chapter, the length of the controls shall be no less than 20 years or until such time thereafter that the units become vacant.

(h) In cases where a structure is rehabilitated with Balanced Housing funds and one or more of the units is not affordable, the cost of common area and systemwide improvements to be paid by the owner shall be proportionate to the number of units that are not Balanced Housing units as compared to the total number of units.

(i) The local construction official or licensed housing inspector must certify that each unit to be rehabilitated with Balanced Housing funds is substandard, that is, health and safety code violations exist, and that abating those code violations requires that one or more of the following major systems must be replaced or extensively repaired: roof, electrical, plumbing, sanitary plumbing, heating or load bearing structural systems.

(j) Any structure repaired in whole or in part with Balanced Housing funds must, upon completion, be certified by

the local construction official or other public official having jurisdiction to be free of code violations in accordance with the HUD Section 8 Housing Quality Standards or any applicable State or local housing code that is more stringent.

(k) Balanced Housing funds may be used only for work and repairs required to make a unit standard and any other work or repairs (including finishing and painting) that is directly related to the required activities. Luxury improvements, improvements that are strictly cosmetic, and the purchase of free-standing appliances (including refrigerators, but not including stoves) with Balanced Housing funds, are prohibited.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

5:14-3.12 Discretionary and Demonstration Projects

(a) In addition to the previously listed types of Balanced Housing projects, the Department reserves the right to fund projects that do not fit into any of these formats. Such projects may include, but shall not be limited to, those that are unique in terms of development, ownership, occupancy characteristics and/or those in which Balanced Housing funds are used to secure additional public financing that would be otherwise lost to the State of New Jersey.

(b) In such projects, the form and amount of Balanced Housing assistance shall be at the discretion of the Department.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

SUBCHAPTER 4. AFFORDABILITY CONTROLS

5:14-4.1 General provisions

(a) The purpose of the affordability control procedures is to provide the means for ensuring that housing units provided for low and moderate income households through a grant or loan agreement funded by the Neighborhood Preservation Balanced Housing Program, pursuant to N.J.S.A. 52:27D-321, remain affordable to and occupied by income eligible households for at least 20 years from the date initial restrictions encumber the unit unless a lesser period of time has been approved by the Division of Housing and Development, Department of Community Affairs.

(b) In order to receive approval for a grant or loan from the Department of Community Affairs, Neighborhood Preservation Balanced Housing Program, a municipality must assure that units remain affordable to and occupied by low and moderate income-eligible households for the prescribed time period.

1. The Affordable Housing Management Service is established within the Department to administer affordability controls for Balanced Housing projects. This service shall be utilized by municipalities receiving Balanced Housing funds as a condition of the funding contract. Funding recipients shall be charged a \$300.00 per unit fee for the use of these services.

2. If the funding recipient is a non-profit organization or a municipality acting as the developer, this fee will be added to the total funding and paid to the Affordable Housing Management Service. If the recipient is a for-profit developer, the fee will be paid by the developer to the Affordable Housing Management Service.

3. An alternative affordability control program may be utilized for special projects requiring more stringent procedures provided verification of an alternative program has been submitted by the project sponsor and written approval has been received from the Affordable Housing Management Service.

4. These rules will be used as a standard for the review and approval of any affordability control program as it pertains to the Neighborhood Preservation Balanced Housing Program.

(c) If any part of this subchapter shall be held invalid, the holding shall not affect the validity of the remaining part of these rules. If a part of these rules is held invalid in one or more of their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

Amended by R.1990 d.100, effective February 5, 1990.

See: 21 N.J.R. 3695(a), 22 N.J.R. 337(a).

Established Affordable Housing Management Service to administer affordability controls and established \$300.00 per unit fee.

5:14-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Adjusted rent" means the base rent for a rental unit adjusted by the Index.

"Affordable Housing Agreement" means the written agreement between an owner of an affordable housing unit and the Department that imposes restrictions on units developed with funding from the Neighborhood Preservation Balanced Housing Program to ensure that those housing units remain affordable to households of low and moderate income for a specified period of time.

"Applicant household" means a household that has submitted a Preliminary Application for an eligibility review.

"Assessments" means all taxes, levies, or charges, both public and private, including those charges by any condominium cooperative or homeowner's association as the applicable case may be, imposed upon the affordable housing unit.

"Base price" means the initial sales price of a unit designated as owner-occupied affordable housing and restricted by affordability controls.

"Base rent" means the charge established for a rental unit at the time the unit is first restricted by affordability controls, including an allowance for tenant paid utilities.

"Certified household" means any eligible household whose total gross annual income has been verified, whose financial references have been approved and who has received certification as a low or moderate income-eligible household.

"Closing costs" means those costs of a real estate sale that are incurred by the buyer and seller at the time of sale including, but not limited to, attorney's fees, mortgage points, real estate transfer fee, and applicable real estate broker fees.

"Department" means the Department of Community Affairs.

"Eligible household" means a household whose preliminary application has been reviewed, whose unverified estimated total gross annual income is judged to be low or moderate income pursuant to applicable guidelines, and whose name has been placed on a waiting list for affordable housing.

"First purchase money mortgagee" means the holder and/or assigns of the first purchase money mortgage and which must also be an institutional lender or investor, licensed or regulated by a state or the Federal government or an agency thereof.

"Foreclosure" means the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

"Gross annual income" means the total amount of a household's income from all sources including but not limited to salary, wages, interest, dividends, alimony, pensions, social security, disability, business income and capital gains, tips and welfare benefits. Generally, gross annual income will be based on income reported to the Internal Revenue Service (IRS).

"Household" means the person or persons occupying a housing unit.

"Index" means the measured percentage of change in the median income established for a household of four by geographic region using the uncapped median income estimates published periodically by the U.S. Department of Housing and Urban Development and approved for use by the New Jersey Council on Affordable Housing.

"Low income household" means a household whose gross annual income is equal to 50 percent or less of the median gross income established by geographic region and household size using median income figures and family size adjustment methodology published periodically in the Federal Register by the U.S. Department of Housing and Urban Development and approved for use by the Council on Affordable Housing.

"Moderate income household" means a household whose gross annual income is equal to more than 50 percent but less than 80 percent of the median gross income established by geographic region and household size using median income figures and family size adjustment methodology published periodically in the Federal Register by the U.S. Department of Housing and Urban Development and approved for use by the Council on Affordable Housing.

"Owner" means the title holder of record as same is reflected in the most recently dated and recorded deed for the particular affordable housing unit.

"Price differential" means the total amount of the unrestricted sales price that exceeds the maximum restricted resale price as calculated by the Index. The unrestricted sales price shall be no less than a comparable fair market price as determined by the Department at the time a Notice of Intent to Sell has been received from the owner.

"Primary residence" means the unit wherein a certified household maintains continuing residence for no less than nine months each calendar year.

"Purchaser" means a certified household who has signed an agreement to purchase an Affordable Housing unit subject to a mortgage commitment and closing.

"Repayment lien" means the second mortgage document signed by the owner that is given to the Department as security for the payment of 95 percent of the price differential generated by the first non-exempt sale of an Affordable Housing sales unit at the time of closing and transfer of title of the property after the ending date established in the Affordable Housing Agreement.

"Renter" means a household who has been certified for an Affordable Housing unit for rent subject to the signing of a lease and the payment of any required security deposit.

"Resale price" means the base price as adjusted by the Index. The resale price may also be adjusted to accommodate an approved home improvement.

5:14-4.3 Affordable Housing Agreement

(a) An Affordable Housing Agreement (hereinafter "the Agreement") shall be signed and recorded with the recording office of the county in which the Balanced Housing unit/unit (with the exception of Neighborhood Rehabilitation owner-occupied single family units and rental units covered by more restrictive Federal regulations) is/are located. The provisions of the Agreement shall constitute restrictive covenants running with the land with respect to the Balanced Housing units described and identified in the Agreement.

1. The Agreement shall set forth the terms, conditions, restrictions, and provisions applicable to the Balanced Housing units. The terms, conditions, restrictions and provisions of the instrument shall bind all purchasers and owners of the Balanced Housing units, their heirs, assigns and all persons claiming by, through or under heirs, assigns and administrators.

2. When a single Agreement is used to govern more than one Balanced Housing unit, the Agreement must contain a description of each unit governed by the Agreement and the ending date imposed on the unit.

3. This Agreement shall be executed by the Department and the owner or the then current title holder of record of the property upon which the Balanced Housing units are to be situated prior to its recording unless the municipality has an alternative affordability plan approved by the Department in which case the Agreement shall be executed by the grantee municipality and the owner.

(b) All deeds of conveyance from all owners to certified purchasers of Balanced Housing units shall include the following clause in a conspicuous place:

"The Owner's right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the AFFORDABLE HOUSING AGREEMENT dated _____ which was filed in the office of the Clerk of _____ County in Misc. Book _____ at Page _____ on _____ and is also on file with the N.J. Department of Community Affairs."

1. Any master deed that includes a Balanced Housing unit shall also reference the affordable unit and the Affordable Housing Agreement and any variation in services, fees, or other terms of the master deed that differentiates the affordable unit from all other units covered in the master deed.

(c) The Affordable Housing Agreement shall list the following restrictions:

1. The owner of an Affordable Housing sales unit shall not sell the unit at a resale price greater than an established base price plus the allowable percentage of increase as determined by the Index applicable to the household size and the municipality in which the unit is

located. The owner of an Affordable Housing rental unit shall not rent the unit at an adjusted rent that is greater than an established base rent plus the allowable percentage of increase as determined by the Index applicable to the household size and the municipality in which the unit is located.

2. The owner shall not sell or rent the Affordable Housing unit to anyone other than a purchaser or renter who has been certified utilizing the income verification procedures established by the Department to determine qualified low and moderate income-eligible households.

3. The owner of an Affordable Housing sales unit shall be obligated to pay 95 percent of the price differential generated at the first non-exempt sale of the Affordable Housing unit to the Department at the time of closing and transfer of title after the termination of affordability controls in accordance with the terms of the repayment lien. For the purposes of this Agreement, price differential shall be the total amount of the unrestricted sales price (which shall be no less than a comparable fair market price established by the Department at the time a Notice of Intent to Sell has been received from the owner) that exceeds the maximum restricted resale price as calculated by the Index.

4. The Affordable Housing unit shall be sold in accordance with all rules, regulations, and restrictions duly promulgated by the Department (N.J.A.C. 5:14) the intent of which is to ensure that the Affordable Housing unit remains affordable to and occupied by low and moderate income-eligible households throughout the duration of the Agreement.

(d) The Affordable Housing Agreement shall include the following owner responsibilities:

1. Affordable Housing units which have not been previously approved as rental Affordable Housing units shall at all times remain the primary residence of the owner. The owner shall not rent such Affordable Housing unit to any party whether or not that party qualifies as a low or moderate income household without prior written approval from the Department.

2. Affordable Housing units designated as rental units shall at all times remain the primary residence of the renter and shall not be sublet to any party whether or not that party is qualified as a low or moderate income-eligible household without prior written approval from the Department.

3. All home improvements made to an Affordable Housing unit shall be at the owner's expense except that expenditures for any alteration that allows a unit to be resold or rented to a larger household size because of an increase capacity for occupancy shall be considered for a recalculation of base price or base rent. Owners must obtain prior approval for such alteration to qualify for this recalculation.

4. The owner of an Affordable Housing unit shall keep the Affordable Housing unit in good repair.

5. Owners of Affordable Housing units shall pay all taxes, charges, assessments or levies, whether public and private, assessed against such unit, or any part thereof, as and when the same become due.

6. Owners of Affordable Housing units shall notify the Department in writing 60 days prior to a rental vacancy and 90 days for notification of an intent to sell the property. Owners shall not convey title or lease or otherwise deliver possession of the Affordable Housing unit without the prior written approval of the Department.

7. An owner shall request referrals of certified households from the pre-screened established waiting list maintained by the Department.

8. If no referrals are available, the owner may sell, transfer, convey or rent the property to an eligible household not referred by the Department. The proposed purchaser/renter must complete all required Household Eligibility forms and submit gross annual income information for verification to the Department for certification as an eligible sales/rental transaction.

9. At resale of an Affordable Housing sales unit, the owner must personally certify that all items of personal property which are not permanently affixed to the unit and were not included when the unit was originally purchased (for example, refrigerator, freezer, washer, dryer, dishwasher, carpet, drapes) have either been included in the maximum allowable resale price or sold to the purchaser at a reasonable price that has been approved by the Department at the time of signing the agreement to purchase. Such transfer of funds shall also be certified by the purchaser at the time of closing. In no event shall the purchase of personal property be made a condition of the unit resale.

10. The owner shall not permit any lien, other than the first purchase money mortgage, Department approved second mortgages and liens of the Department to attach and remain on the property for more than 60 days.

11. If an Affordable Housing unit is part of a condominium, homeowner's or cooperative association, the owner, in addition to paying any assessments required by the master deed of the condominium or by-laws of an association, shall further fully comply with all of the terms, covenants or conditions of said master deed or by-laws, as well as fully comply with all conditions and restrictions of this Affordable Housing Agreement.

12. The owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and requirements duly promulgated by the Department (N.J.A.C. 5:14-4.3), for determining that a resale transaction is qualified for a certification of exemption or a hardship waiver.

13. The owner shall have responsibility for forwarding copies of all documents filed with the applicable county recording office to the Department after they have been signed, dated and recorded.

14. The owner shall be obligated to pay a service fee at the time of resale or at each new rental occupancy. The service fee for a sales unit shall be \$150.00 to be paid at closing from the seller's receipts. The service fee for a rental unit shall be in the amount of two percent of the vacant unit's current annualized rent to be paid at the time a lease agreement is signed by the owner.

5:14-4.4 Sales units

(a) At initial sale, base prices for sales units shall be determined in accordance with contractual agreements approved by the Department at levels that indicate affordability to households whose gross annual incomes are within low and moderate income ranges as determined by the approved median income guide for the municipality. At initial sale, an Affordable Housing Agreement and a repayment lien shall be signed and recorded with the property deed. The purchaser shall forward a copy of all recorded documents to the Department.

(b) The base price will be indexed according to measured changes in the approved median income guide applicable to the municipality in which the unit is located. An owner who wishes to sell an affordable housing unit shall give written notice to the Department. A resale price shall be calculated using the approved Index and an estimated monthly mortgage payment shall be determined. The approved resale price shall not be established at a level lower than the last recorded purchase price.

(c) A household's estimated monthly mortgage payment, including principal, interest, taxes, insurance, and condominium or association fees when applicable, shall not exceed 28 percent of gross monthly income. Mortgage approval is the responsibility of the household. Certified households whose gross monthly income times 28 percent is not less than the estimated monthly mortgage payment and whose family size meets occupancy criteria will be referred to the owner for contract negotiations within 60 days of receipt of the initial notice. The Department reserves the right to waive this requirement if circumstances necessitate a higher percentage and the household concurs.

(d) A home improvement that increases the unit's size, making it suitable for occupancy by a larger household, may be approved by the Department for a resale price adjustment. The adjusted resale price shall not exceed the equivalent affordability range as determined for the larger household using the applicable median income guide. Additional allowances, unrelated to the maximum allowable resale price, for home improvements deemed necessary for maintaining the standard condition of an affordable housing unit may be approved by the Department.

(e) If no certified household has executed an agreement to purchase within 90 days of the Department's notification to the owner of an approved resale price and referral of potential purchasers, the owner may request that the unit be sold to a household that exceeds the income eligibility criteria established for that unit by submitting a written request for a hardship waiver to the Department, and a copy to the municipality wherein the unit is located.

(f) For approval of a hardship waiver, an owner must provide documentation to the Department that there has been a good faith effort to sell the unit to a certified household for 90 days and no certified household has signed an agreement to purchase the unit or that economic factors not related to household income, including, but not limited to, interest rates, taxes, or insurance, inhibit the ability of an income-eligible household to obtain a mortgage commitment for the unit.

1. Upon receipt of a request for a hardship waiver, the municipality in which the unit is located shall have first option to purchase the unit at the approved resale price and to hold and rent or convey it to a certified household. The municipality shall have 30 days in which to exercise this option.

(g) The Department shall approve or deny a hardship waiver in writing within 30 days of receipt of the request. A hardship waiver in recordable form shall be provided to the purchaser at the time of closing and filed with the deed and the Affordable Housing Agreement. The hardship waiver only applies to income eligibility restrictions for occupancy and is only valid for the designated resale transaction. It does not affect the resale price restriction. Future resales are subject to all deed restrictions concerning income eligibility and the indexed resale price.

1. If the Department denies a hardship waiver, an owner may file a written request to appeal within 15 days of receipt of the denial to the Hearing Officer, Division of Housing and Development, Department of Community Affairs, CN 802, Trenton, NJ 08625. If a written request has not been received within 15 days after the owner's receipt of the denial, the order of denial shall be final.

(h) The following title transactions shall be deemed exempt and the Department shall provide the owner receiving title with written confirmation of the exemption to those restrictions that determine occupancy of the unit.

1. Transfer of ownership between husband and wife;
2. Transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial decree of separation (but not including sales to third parties);
3. Transfer of ownership between family members by will or intestate succession;

4. Transfer of ownership through an Executor's deed to a Class A beneficiary; and

5. Transfer of ownership by court order.

(i) An exempt transfer of ownership does not terminate the resale restrictions or existing liens on the property. All liens must be satisfied in full prior to subsequent resale and all subsequent resale prices must be calculated using the income index in compliance with the terms of the Affordable Housing Agreement.

1. The exempt transaction shall not be considered as a recorded transaction in calculating subsequent resale prices.

(j) The owner shall notify the Department in writing of any proposed transaction that he or she wishes to have qualify as an exempt transaction. The owner shall supply the Department with all necessary documentation to demonstrate that the transaction qualifies as exempt. The Department may request additional documentation as it deems necessary. The Department shall approve or deny in writing a request for a certificate of exemption within 15 days of the receipt of the request.

1. If the Department denies the exemption, the owner may submit a written appeal within 15 days to the Hearing Officer, Division of Housing and Development, Department of Community Affairs, CN 802, Trenton, NJ 08625. If a written request for an appeal has not been received within 15 days after the owner's receipt of the denial, the denial of the certificate of exemption shall be final.

2. A certificate of exemption shall be filed with the deed and the Affordable Housing Agreement at the time of title transfer.

5:14-4.5 Owner-occupied Neighborhood Rehabilitation Projects

(a) Owner-occupied units in Neighborhood Rehabilitation Projects shall be restricted by a deferred loan agreement that is secured by a note and mortgage from the property owner to the Department of Community Affairs. The mortgage shall be subordinate to a senior mortgage and additional liens as identified at the time of the signing of the mortgage. An income-eligible owner-occupant who is the recipient of a deferred payment loan for rehabilitation of a substandard unit shall be subject to the following restrictions:

1. If the owner-occupant (hereinafter known as the borrower) transfers title to the property, vacates the unit, or prepays the principal amount within 10 years from the date the unit has been declared in standard condition, the borrower shall pay the Department the original loan amount plus two percent interest calculated as simple interest annually.

2. In the event of the death of the owner-occupant prior to the end of the 10 year restricted period, the loan shall be due and payable at the two percent annual interest rate at the time of death unless the persons inheriting the property are income eligible and personally occupy the rehabilitated property. In this event the loan shall be due and payable under the same terms as above if the persons inheriting the property vacate, transfer title to the property, or pre-pay the loan any time thereafter until the end of the same ten year period.

3. If the property is sold for fair market value and the excess of the sales price over the costs associated with the sale, including the satisfaction of superior liens, is less than the amount owed to the Department, the Department shall waive repayment of all or a portion of the Balanced Housing loan. In this event, the Department shall review the proposed sales contract and may require an appraisal to confirm the sales price as fair market value.

4. After 10 years, the Department shall forgive the loan and cancel the note and mortgage without repayment.

5. The Department shall not subordinate its lien to any subsequent mortgage. This requirement may be waived by the Department under the following circumstances:

i. The proceeds of the new loan are required to make major repairs of the property that were not addressed in the original rehabilitation project or to address items which have become substandard subsequent to the rehabilitation;

ii. The proceeds of the new loan are required for the payment of medical expenses;

iii. The proceeds of the new loan are required for educational expenses; and/or

iv. The overall debt remains essentially unchanged but the mortgage has been refinanced in order to obtain more favorable terms.

6. Requests for waivers should be addressed to the Division Director no less than 45 days in advance of the loan closing. The written decision of the Director shall be final.

(b) Rental units included in a Neighborhood Rehabilitation Project shall be subject to a 10 year Affordable Housing Agreement that shall limit the occupancy of the rental unit to an eligible low or moderate income household, limit rents to annual increases measured by the Index, and be filed in the office of the county recording officer.

(c) The deferred loan payment term and the 10 year Affordable Housing Agreement shall begin on the date the unit is determined to be in standard condition as verified by a municipal code enforcement officer.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Subordination of loan prohibited; waiver provisions added.

5:14-4.6 Rental units

(a) Initial rents shall be determined in accordance with contractual agreements approved by the Department at ranges that indicate affordability to households whose gross annual incomes are within low and moderate income ranges as determined by the approved median income guide for the municipality.

1. The maximum allowable base rent shall be calculated so as to be affordable (30 percent of gross monthly income) to a household whose estimated total gross annual income is at 50 percent of the applicable median income for low income units or below 80 percent of the applicable median income for moderate income units. Maximum base rents shall be calculated to include a utility allowance for tenant paid utilities.

2. In an occupied rental unit contained within a two-to-four unit owner-occupied rehabilitated structure, the maximum base rent shall be the greater of the current rent or 30 percent of the gross monthly income of the eligible household occupying the unit. The current rent (defined as the rent charged at the time of the municipality's application) shall not exceed the maximum allowable rent for a household at 50 percent of median for low income units or below 80 percent of median for moderate income units.

3. In an unoccupied rental unit contained within a two-to-four unit owner-occupied rehabilitated structure, the maximum base rent shall be the greater of the last rent charged or 30 percent of the gross monthly income of the first household to occupy the unit following rehabilitation. If the last rent charged is unknown, the base rent shall be calculated so as not to exceed the maximum allowable rent for a household at 50 percent of median for low income units or below 80 percent of median for moderate income units.

(b) The Department shall generally refer households to units for which the monthly rental charge, including an allowance for utilities, is approximately 30 percent of their gross monthly income.

(c) At the time restrictions are initially placed on a rental unit, an Affordable Housing Agreement shall be signed and duly recorded. The owner shall forward copies of the recorded deed and the agreement to the Department for its files.

(d) The landlord shall notify the Department of any impending vacancy in any restricted rental unit no less than 60 days before the unit is to become available.

(e) The Department shall refer a list of certified households who meet income and bedroom size criteria for a

vacant unit to a landlord for lease negotiations within 30 days of receipt of this notification. Landlords must select a certified household for occupancy of an affordable rental unit. Final tenant selection shall be the responsibility of the landlord. However, no referred household shall be denied a lease for any reason that violates any applicable law.

(f) A written lease shall be required in all restricted rental units. Final lease agreements will be the responsibility of the landlord and the prospective tenant. Tenants are responsible for security deposits and the full amount of the rent as stated on the lease. All lease provisions shall comply with applicable law.

(g) Rental charges may be adjusted at the annual anniversary date of the lease. Rent adjustments shall be determined by adjusting the base rent by the applicable Index. The Department shall notify all landlords of changes in the Index. The landlord shall submit a written request for rent adjustment approval to the Department when a rent adjustment is to be made. The Department shall promptly approve or disapprove all rent adjustment requests.

(h) An owner of a restricted rental unit shall notify the Department in writing of an intent to transfer ownership of the property. A copy of the recorded deed shall be forwarded to the Department. The property shall be retained as affordable housing at resale subject to the Affordable Housing Agreement.

5:14-4.7 Procedures for establishing eligibility for occupancy

(a) In order to be considered for an Affordable Housing unit, households shall submit a preliminary application to the Department. As completed preliminary applications are received, the Department shall review the applications for income eligibility and family size and in accordance with all applicable laws.

1. When the initial review indicates that an applicant household may be eligible, the name of the head of the household shall be placed on a waiting list. The Department will send a confirmation letter to the applicant.

(b) When the initial review indicates that an applicant household is income-ineligible, the applicant household shall be advised in writing and the preliminary application shall be denied. If an applicant household receives a determination of ineligibility, the applicant may submit a written request for a redetermination to the Department within 15 days of receipt of the denial. The request must set forth the basis for the claim of eligibility. The applicant household shall be required to produce documentation to support the claim at the time of redetermination. Written notice of the redetermination shall be given to the applicant by the Department.

1. If the applicant household receives a second notice of ineligibility, a written appeal may be filed with the

Hearing Officer, Division of Housing and Development, Department of Community Affairs, CN 802, Trenton, NJ 08625, within 15 days of receipt of the notice of redetermination. If a written request has not been received within 15 days after the applicant household's receipt of this notice, the determination shall be final and the application shall be considered denied.

(c) As units become available, the Department shall notify eligible households who satisfy the income criteria and occupancy standards for an available unit and schedule them for a certification interview. At the certification interview, the household shall be requested to document all income for the purpose of qualifying for the required mortgage or rent payment. The certification process may also include a credit background report. Every household member 18 years of age or older who will live in the affordable unit and who receives income shall be required to provide verification of income. Verification may include, but is not necessarily limited to, any of the following:

1. A letter from the household member's employer stating an annualized current income figure of four consecutive paystubs dated within 120 days of the interview date;

2. A letter or appropriate reporting form verifying, without limitation, social security, unemployment, disability, pension or other benefits;

3. A letter or appropriate reporting form verifying any other sources of income claimed by the applicant;

4. A copy of IRS Form 1040, 1040A, or 1040EZ, as applicable, and New Jersey State income tax returns for each of the three years prior to the date of interview;

5. Reports that verify income from bank accounts, securities, trust funds or other income-producing properties; or

6. Reports that verify assets that do not earn regular income such as non-income producing real estate and savings with delayed earnings provisions.

(d) Eligible households who are denied certification shall be notified in writing of the denial. This notice shall state the specific reason for the denial. If the eligible household disagrees with this finding it may file a written request for redetermination with the Department within 15 days of receipt of the notice. Eligible households shall be required to produce documentation to support their claim.

1. Eligible households who are again denied certification may file a written appeal with the Hearing Officer, Division of Housing and Development, Department of Community Affairs, CN 802, Trenton, NJ 08625 within 15 days of receipt of the denial. If a written request has not been received within 15 days of the household's receipt of this notice, the determination shall be final and the application considered denied.

(e) Only households approved by the Department as certified households shall have an opportunity to be considered for low and moderate income housing. Households who are certified shall be issued written certification that is valid for 120 days. Certification may be extended by the Department for one additional period of 120 days if a mortgage application has been made and the household has not received approval or denial. Households having received certification which expires shall be returned to the referral list and may be considered for future housing referrals.

(f) To the greatest extent possible, certified households shall be referred to available units using the following accepted standards for occupancy:

1. A maximum of two persons per bedroom;
2. Children of same sex in same bedroom;
3. Unrelated adults or persons of the opposite sex other than husband and wife in separate bedrooms; and
4. Children not in same bedroom with parents.

(g) In no case shall a household be referred to a unit that provides for more than one bedroom in excess of family occupancy requirements.

(h) The Department shall gather information on each assisted household's income, assets and household characteristics from time to time for purposes of program evaluation.

5:14-4.8 Foreclosure

(a) A judgment of foreclosure in favor of or a deed in lieu of foreclosure to an institutional first mortgagee on any owner-occupied restricted unit shall result in a termination of affordability controls, except for the defaulting mortgagor who shall be forever subject to the restrictions with respect to the unit owned by him at the time of default.

1. All resale restrictions shall cease to be effective as of the transfer of title pursuant to foreclosure with regard to the first purchase money mortgagee or a lender in the secondary mortgage market including, but not limited to, the Federal National Mortgage Association, the Home Loan Mortgage Corporation, or the Government National Mortgage Association; or an entity acting on their behalf.

2. Affordability controls shall remain in effect in the event of any judgment of foreclosure on a rental unit, other than a rental unit in a one to four family rehabilitated owner-occupied dwelling.

(b) Nothing shall preclude the municipality in which the unit is located from purchasing the unit at the maximum permitted resale price and holding, renting or conveying it to a certified household. The municipality shall have 60 days after the unit is listed for sale in which to exercise this option. Failure of the financial institution to provide notice of a foreclosure action to the Department or the municipality shall not impair the financial institution's rights to recoup loan proceeds and shall create no cause of action against the financial institution.

(c) In the event of a foreclosure sale by a first purchase money mortgagee, any surplus funds exceeding the maximum allowable resale price, as calculated in accordance with the approved index, which remains after the amount required to pay and satisfy the first purchase money mortgage including the costs of foreclosure and any previously approved second mortgages shall be paid to the Department as reimbursement for Neighborhood Preservation Balanced Housing Program Funding invested in the unit. Any remaining funds in excess of outstanding grants or loans shall be returned to the municipality.

5:14-4.9 Violations, defaults and remedies

(a) Upon a violation of any of the provisions of the Affordable Housing Agreement by the owner of a Balanced Housing unit, the Department may give written notice to the owner specifying the nature of the violation and requiring a correction within a reasonable period of time as specified in the notice.

1. The owner shall be obligated to notify the Department that the violation has been corrected within the reasonable time period or that additional time is needed for the correction. The Department will grant additional time for good cause and notify the Owner that additional time has been granted.

2. If the owner does not forward written notification, as required, or correct the violation within the time specified, the Department may declare a default of the Agreement.

3. The interest of any owner may, at the option of the Department, be subject to forfeiture in the event of substantial breach of any of the terms, restrictions and provisions of the Agreement which remains uncured for the period of 60 days after service of the written notice of violation upon the owner by the Department.

4. The notice of violation shall specify the particular infraction and shall advise the owner that his or her right to continued ownership may be subject to forfeiture if such infraction is not cured within 60 days of receipt of the notice.

(b) If an owner makes any misrepresentation in connection with the purchase, rental, or sale of an affordable housing unit pursuant to the Agreement, the Department may apply to a court of competent jurisdiction for specific performance of the Agreement, for an injunction prohibiting a proposed sale, lease, or transfer in violation of the Agreement, or a declaration that a sale or transfer in violation of the Agreement is void, or for any other relief as may be deemed appropriate.

(c) The provisions of this section may be enforced by the Department by court action seeking a judgment which would result in the termination of the owner's equity or other interest in the unit. Any judgment shall be enforceable as if same were a judgment of default of the first

money mortgage and shall constitute a lien against the particular Balanced Housing unit.

1. A court judgment of default shall obligate the owner to accept the first offer to purchase from any certified household, who has been referred to the owner by the Department, with such offer to purchase being no more than the maximum permitted resale price of the Balanced Housing unit as permitted by the terms and provisions of the Affordable Housing Agreement.

2. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of the Agreement until such time as title is conveyed to a new owner.

(d) In the event that the Balanced Housing unit is a rental unit, and the owner has leased such unit either for a rental charge in excess of that permitted by the Agreement or to a tenant who has not been certified by the Department, the Department shall have recourse to all legal remedies as stated above, including the recapture of surplus rents paid in excess of the maximum permitted Rental Charge.

5:14-4.10 Length of restrictions

(a) The municipality shall provide contractual guarantees and procedures that will ensure that all units funded with Balanced Housing funds for low and moderate income households, with the exception of Neighborhood Rehabilitation 1-4 unit projects, shall remain affordable to such households from the date the initial restrictions encumber the unit until such time as stated below.

1. Sales units located in those municipalities listed in Appendix A, incorporated herein by reference, shall remain affordable to low and moderate income households for at least 10 years. At the first non-exempt sales transaction after the restricted period, the owner shall be entitled to the maximum allowable resale price as calculated by the index and five percent of the price differential. The balance of the price differential shall be returned to the Balanced Housing Fund for additional housing development purposes.

2. Sales units located in municipalities not listed in Appendix A shall remain affordable to low and moderate income households for at least 20 years. At the first non-exempt sales transaction after the restricted period, the owner shall be entitled to the maximum allowable resale price as calculated by the Index and five percent of the price differential. The balance of the price differential shall be returned to the Balanced Housing Fund for additional housing development purposes.

3. At least 10 years for rental units located in municipalities listed in Appendix A.

4. At least 20 years for rental units located in municipalities not listed in Appendix A.

(b) For rental units created or rehabilitated with Balanced Housing funds, affordability controls shall remain in effect after the expiration date until the date on which a rental unit shall become vacant provided that the occupant household continues to earn a gross annual income of less than 80 percent of the applicable median income.

(c) The affordability control periods established in (a) above shall begin as follows:

1. For sales units, on the date a certificate of occupancy is issued;

2. For rental housing containing two or more units, on the date of 50 percent occupancy, as determined by the Department or municipality administering controls; and

3. For single-family housing which is rented, on the date the unit is first occupied.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Stylistic changes.

APPENDIX A

Atlantic: None

Bergen: Lodi, Garfield

Burlington: Pemberton Township

Camden: Camden

Cape May: None

Cumberland: Vineland, Bridgeton

Essex: Belleville, Bloomfield, East Orange, Irvington, Montclair, Newark, Orange

Gloucester: Deptford

Hudson: Bayonne, Hoboken, Jersey City, North Bergen, Union City, Weehawken, West New York

Hunterdon: None

Mercer: Trenton

Middlesex: Carteret, New Brunswick, Perth Amboy

Monmouth: Asbury Park, Keansburg, Long Branch, Neptune

Morris: None

Ocean: Lakewood

Passaic: Passaic, Paterson

Salem: None

Somerset: None

Sussex: None

Union: Elizabeth, Hillside, Plainfield, Roselle

Warren: Phillipsburg

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

Phillipsburg added.

APPENDIX B

Maximum Subsidy Homeownership Units

| Sales Price (1000's) | Studio/1BR | 2BR | 3BR | 4BR |
|-------------------------|------------|--------|--------|--------|
| 80 | 0 | 0 | 0 | 5,000 |
| 77.5 | 0 | 0 | 250 | 6,250 |
| 75 | 0 | 0 | 1,500 | 7,500 |
| 72.5 | 0 | 0 | 2,750 | 8,750 |
| 70 | 0 | 0 | 4,000 | 10,000 |
| 67.5 | 0 | 0 | 5,250 | 11,250 |
| 65 | 0 | 0 | 6,500 | 12,500 |
| 62.5 | 0 | 1,250 | 7,750 | 13,750 |
| 60 | 0 | 2,500 | 9,000 | 15,000 |
| 57.5 | 0 | 3,750 | 10,250 | 16,250 |
| 55 | 0 | 5,000 | 11,500 | 17,500 |
| 52.5 | 0 | 6,250 | 12,750 | 18,750 |
| 50 | 625 | 7,500 | 14,000 | 21,250 |
| 47.5 | 1,875 | 8,750 | 15,250 | 23,750 |
| 45 | 3,125 | 10,000 | 17,750 | 26,250 |
| 42.5 | 4,375 | 12,500 | 20,250 | 27,500 |
| 40 | 5,625 | 15,000 | 22,750 | 27,500 |
| 37.5 | 6,875 | 17,500 | 25,000 | 27,500 |
| 35 | 8,125 | 20,000 | 25,000 | 27,500 |
| 32.5 | 10,375 | 22,500 | 25,000 | 27,500 |
| 30 | 12,875 | 22,500 | 25,000 | 27,500 |
| 27.5 | 15,375 | 22,500 | 25,000 | 27,500 |
| 25 | 17,875 | 22,500 | 25,000 | 27,500 |
| 22.5 or less | 20,000 | 22,500 | 25,000 | 27,500 |

ADJUSTMENTS:

1. Unit Size:

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

| | |
|------------|---------------|
| Studio | 500 Sq. Ft. |
| 1 Bedroom | 600 Sq. Ft. |
| 2 Bedrooms | 750 Sq. Ft. |
| 3 Bedrooms | 950 Sq. Ft. |
| 4 Bedrooms | 1,150 Sq. Ft. |

For units of smaller square footage, deduct from the maximum subsidy \$25.00 for each square foot below the minimum.

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. See N.J.A.C. 5:14-2.2(c) for waiver provisions.

2. Purchaser Profile:

The amount of Balanced Housing funds reserved for a project shall be based on the information provided in the application. If, during occupancy, there is a need to alter the purchase price based on the actual purchaser profile, the Department may, at its discretion and subject to the availability of funds, adjust the subsidy as follows:

If the price is lowered in order to accommodate a household at the targeted range of affordability which does not meet the standard occupancy assumptions (for example, a three person household that requires a three bedroom unit), add one dollar in subsidy for each dollar that the purchase price is reduced.

For adjustments made in the price of a unit based on an altered range of affordability, the adjusted subsidy shall be calculated off the funding chart.

The total additional subsidy shall not exceed \$15,000 per unit.

Units in which the occupancy has been restricted in accordance with N.J.A.C. 5:14-2.2(c) shall not be eligible for a purchaser profile adjustment.

3. Location: For units located in municipalities listed on Appendix A, add 20 percent to the maximum subsidy.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

APPENDIX C

Maximum Subsidy Rental Units

| Monthly Rent | SRO | Studio/1BR | 2BR | 3BR | 4BR |
|--------------|--------|------------|--------|--------|--------|
| 900 | 0 | 0 | 0 | 250 | 5,000 |
| 875 | 0 | 0 | 0 | 1,500 | 6,250 |
| 850 | 0 | 0 | 0 | 2,750 | 7,500 |
| 825 | 0 | 0 | 0 | 4,000 | 8,750 |
| 800 | 0 | 0 | 0 | 5,250 | 10,000 |
| 775 | 0 | 0 | 0 | 6,500 | 11,250 |
| 750 | 0 | 0 | 0 | 7,750 | 12,500 |
| 725 | 0 | 0 | 0 | 9,000 | 13,750 |
| 700 | 0 | 0 | 1,250 | 10,250 | 15,000 |
| 675 | 0 | 0 | 2,500 | 11,500 | 16,250 |
| 650 | 0 | 0 | 3,750 | 12,750 | 17,500 |
| 625 | 0 | 0 | 5,000 | 14,000 | 18,750 |
| 600 | 5,000 | 500 | 6,250 | 15,250 | 20,000 |
| 575 | 7,500 | 1,750 | 8,750 | 16,500 | 22,500 |
| 550 | 10,000 | 3,000 | 10,000 | 19,000 | 25,000 |
| 525 | 12,500 | 4,250 | 11,250 | 21,500 | 27,500 |
| 500 | 15,000 | 5,500 | 12,500 | 24,000 | 30,000 |
| 475 | 15,000 | 6,750 | 15,000 | 26,500 | 32,500 |
| 450 | 15,000 | 8,000 | 17,500 | 29,000 | 32,500 |
| 425 | 15,000 | 10,250 | 20,000 | 30,000 | 32,500 |
| 400 | 15,000 | 13,000 | 22,500 | 30,000 | 32,500 |
| 375 | 15,000 | 15,250 | 25,000 | 30,000 | 32,500 |
| 350 | 15,000 | 18,000 | 27,500 | 30,000 | 32,500 |
| 325 | 15,000 | 20,500 | 27,500 | 30,000 | 32,500 |
| 300 | 15,000 | 23,000 | 27,500 | 30,000 | 32,500 |
| 275 | 15,000 | 24,250 | 27,500 | 30,000 | 32,500 |

| Monthly Rent | SRO | Studio/1BR | 2BR | 3BR | 4BR |
|--------------|--------|------------|--------|--------|--------|
| 250 or less | 15,000 | 25,000 | 27,500 | 30,000 | 32,500 |

ADJUSTMENTS:

Unit size:

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

| | |
|-----------|---------------|
| Studio | 500 Sq. Ft. |
| 1 Bedroom | 600 Sq. Ft. |
| 2 Bedroom | 750 Sq. Ft. |
| 3 Bedroom | 950 Sq. Ft. |
| 4 Bedroom | 1,150 Sq. Ft. |

For units of smaller square footage, deduct from the maximum subsidy \$25.00 for each square foot below the minimum.

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. See N.J.A.C. 5:14-2.2(c) for waiver provisions.

2. Renter Profile:

The amount of Balanced Housing funds reserved for a project shall be based on the information provided in the application. If during occupancy there is a need to alter the rent based on the actual renter profile, the Department may, at its discretion and subject to the availability of funds, adjust the subsidy as follows:

If an adjustment in the rent is made in order to accommodate a household at the targeted range of affordability which does not meet the standard occupancy assumptions (for example, a three person household that requires a three bedroom unit) add \$10.00 for each one dollar reduction in rent.

For adjustments made in the rent of a unit based on an altered range of affordability, the adjusted subsidy shall be calculated off the funding chart.

The total additional subsidy shall not exceed \$15,000 per unit.

Units in which the occupancy has been restricted in accordance with N.J.A.C. 5:14-2.2(c) shall not be eligible for a renter profile adjustment.

3. Location: For units located in municipalities listed on Appendix A, add 20 percent to the maximum subsidy.

New Rule R.1992 d.144, effective April 6, 1992.
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

APPENDIX D

Contractor's Fee Schedule (Interpolate as Required)

Fee Schedule: The Contractor's fee shall be based on a percentage of the construction cost in accordance with the following schedule:

| <u>Construction Cost</u> | <u>Percentage</u> | <u>Contractor's Fee</u> | <u>Construction Cost</u> | <u>Percentage</u> | <u>Contractor's Fee</u> |
|--------------------------|-------------------|-------------------------|--------------------------|-------------------|-------------------------|
| Under \$2 Million | 10.0 | — | 19,000,000.00 | 5.9 | 1,121,000.00 |
| \$ 2,000,000.00 | 10.0 | \$ 200,000.00 | 20,000,000.00 | 5.8 | 1,160,000.00 |
| 3,000,000.00 | 9.5 | 285,000.00 | 21,000,000.00 | 5.7 | 1,197,000.00 |
| 4,000,000.00 | 9.0 | 360,000.00 | 22,000,000.00 | 5.6 | 1,232,000.00 |
| 5,000,000.00 | 8.5 | 425,000.00 | 23,000,000.00 | 5.5 | 1,265,000.00 |
| 6,000,000.00 | 8.2 | 492,000.00 | 24,000,000.00 | 5.4 | 1,296,000.00 |
| 7,000,000.00 | 7.9 | 553,000.00 | 25,000,000.00 | 5.3 | 1,325,000.00 |
| 8,000,000.00 | 7.6 | 608,000.00 | 26,000,000.00 | 5.2 | 1,352,000.00 |
| 9,000,000.00 | 7.3 | 657,000.00 | 28,000,000.00 | 5.0 | 1,400,000.00 |
| 10,000,000.00 | 7.0 | 700,000.00 | 30,000,000.00 | 4.8 | 1,440,000.00 |
| 11,000,000.00 | 6.7 | 737,000.00 | 32,000,000.00 | 4.6 | 1,472,000.00 |
| 12,000,000.00 | 6.6 | 792,000.00 | 34,000,000.00 | 4.4 | 1,496,000.00 |
| 13,000,000.00 | 6.5 | 845,000.00 | 36,000,000.00 | 4.2 | 1,512,000.00 |
| 14,000,000.00 | 6.4 | 896,000.00 | 38,000,000.00 | 4.0 | 1,520,000.00 |
| 15,000,000.00 | 6.3 | 945,000.00 | Over \$38 Million | 4.0 | — |
| 16,000,000.00 | 6.2 | 992,000.00 | | | |
| 17,000,000.00 | 6.1 | 1,037,000.00 | | | |
| 18,000,000.00 | 6.0 | 1,080,000.00 | | | |

New Rule R.1992 d.144, effective April 6, 1992.
 Sec: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).