

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 Division, the Division 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.

Recodified from 5:14-4.9 and amended by R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Former section, "Foreclosure", recodified to 5:14-4.7.

5:43-4.9 Effective dates for affordability controls

(a) For units created and rehabilitated with Balanced Housing funds, affordability controls shall be effective as of the date initial restrictions encumber the unit as required by the Balanced Housing Grant Agreement.

(b) For rental units created or rehabilitated with Balanced Housing funds, affordability controls shall remain in effect after the expiration date as required by the Balanced Housing Grant Agreement 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 shall be established according to N.J.A.C. 5:43-3.1(f) and shall begin as follows:

1. For sales units, on the date of the initial sales closing transaction by a certified household;

2. For rental housing containing two or more units, on the effective date of an initial lease agreement with a certified household or when permanent certificates of occupancy are issued, whichever is later, or as determined by the Division; and

3. For single-family housing which is rented, on the effective date of an initial lease agreement with a certified household.

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.

Recodified from 5:14-4.10 and amended by R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Former section, "Violations, defaults and remedies", recodified to 5:14-4.8.

5:43-4.10 Applicability

This subchapter shall be effective for housing units receiving funding from the Division under the Neighborhood

Preservation Balanced Housing Program on the basis of funding agreements executed before the effective date of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26, October 1, 2001. For housing units receiving funding based on funding agreements executed on or after that date, this subchapter shall be inapplicable, and the units shall be subject to the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.

Recodified to 5:14-4.9 by R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Section was "Length of restrictions".

New Rule, R.2001 d.371, effective October 1, 2001.

See: 33 N.J.R. 226(b), 33 N.J.R. 3432(a).

SUBCHAPTER 5. MULTIFAMILY HOUSING PRESERVATION AND RECEIVERSHIP

5:43-5.1 Scope

This subchapter shall apply to applicants for funding under the Multifamily Housing Preservation and Receivership Act, P.L. 2003, c. 295 (N.J.S.A. 2A:42-114 et al.).

5:43-5.2 Insurance

(a) Evidence of builder's risk or all risk insurance must be provided prior to the closing of the Department loan or grant and the appropriate level of coverage is required for the duration of the construction. The minimum amount of the insurance shall be the insurable (replacement cost) value established by the appraisal submitted to the court.

(b) Evidence of Commercial General Liability Insurance shall be required for all completed projects and must be carried at acceptable levels for the duration of the Department loan or grant.

(c) Professional liability insurance for the general contractor and architect shall be required as follows:

1. General contractor:

i. General liability;

ii. Workmen's compensation;

iii. Contractor's public liability in the sum of \$1,000,000/\$3,000,000 and property insurance of \$250,000/\$500,000;

2. Architect:

i. Errors and Omission Insurance of 10 percent of the construction costs or \$250,000, whichever is greater.

(d) All insurance must be issued by a firm with an A.M. Best rating of B+ or better and shall conform to the requirements set forth in Appendix K of this chapter, incorporated herein by reference.

(e) A requirement set forth in this section may be waived or adjusted upon a finding that such requirement would prevent an entity that is otherwise fully qualified to act as a receiver from being appointed receiver, so long as that entity can demonstrate a sufficient level of financial responsibility.

5:43-5.3 Surety bonds

(a) For projects in excess of a \$50,000 hard project cost, a receiver shall be required to post a 100 percent Payment and Performance Bond for a term from the date of the closing of the Department construction loan through two years from the date of issuance of the Certificate of Occupancy or an Architect's Certification of Substantial Completion, whichever is later. The bond will be in an amount sufficient to guarantee compliance with the terms and conditions of the receivership.

(b) Payment and performance bonds shall be in a form acceptable to the Department.

(c) A requirement set forth in this section may be waived or adjusted upon a finding that such requirement would prevent an entity that is otherwise fully qualified to act as a receiver from being appointed receiver, so long as that entity can demonstrate a sufficient level of financial responsibility.

5:43-5.4 Qualification for registration of qualified entities

(a) In order to be eligible to register as a qualified receiver with the Department of Community Affairs, the applicant must demonstrate that at least one person holding a position of responsibility in the organization possesses the minimum qualifications set forth under either (a)1 or 2 below.

1. Property Management: The responsible person must demonstrate any one of the following qualifications; provided, however, that such persons may substitute office or retail property management experience for up to one half of the minimum number of units set forth below on the basis of 1,000 square feet of office or retail space equals one residential unit:

- i. Three years as owner/operator of a property management company with responsibility for management of 100 or more rental units;
- ii. Three years as property manager of a building or buildings with 50 or more rental units;
- iii. Three years as the senior individual responsible for property management at a community development corporation (CDC) or public housing authority (PHA) with 50 or more rental units; or
- iv. Six years as manager or senior staff with substantial responsibility for property management of 50

units or more within a property management company, CDC or public housing authority.

2. Rehabilitation: Individuals whose principal qualifications are in rehabilitation of multifamily housing may serve as receivers on behalf of qualified entities if their activities are on behalf of a firm or entity that they either own, or hold a responsible position in, which maintains and operates the housing (as distinct from acting as a general contractor or construction manager for other parties). In order to qualify under this section, the individual must demonstrate that he or she had responsibility for successful completion of rehabilitation on 50 or more multifamily rental units within the past 10 or fewer years, acting as owner/developer or as responsible staff of a CDC. In order to meet the standard of an entity that maintains and operates the rehabilitated housing, the firm or entity must continue (or plan to continue) as owner and manager of the rehabilitated units for at least five years after completion of rehabilitation. For purposes of this paragraph:

- i. Eligible projects are limited to those in which rehabilitation expenditures were at least \$15,000 per unit; and
- ii. The individual seeking to qualify as a receiver need not be the individual in the firm or entity with direct (hands-on) property management responsibilities, but must hold a position of senior responsibility with the firm or entity.

(b) Applicants on behalf of a qualified entity can substitute course work for experience as follows:

- 1. Completion of property management courses sponsored by the Institute of Real Estate Management (IREM) or other entity acceptable to the Department can be substituted for up to one year of property management experience on the basis of one course equals three months of experience;
- 2. The Department may designate certain courses or curricula as substituting for more than three months of experience, but in no event will allow applicants to substitute courses for more than one year of experience;
- 3. The Department may reduce the minimum number of units required under (a)li or ii above on the basis of completion of property management courses. The number of units may be reduced by no more than one half for courses equivalent to one year of experience, as provided above, or no more than one quarter for a smaller number of courses.

(c) In connection with the application for registration, each applicant on behalf of a qualified entity must disclose, with regard to himself or herself or any other person holding a position of responsibility in entity, or with regard to the entity itself or any related entity:

1. Any criminal convictions within the previous 10 years other than motor vehicle offenses;

2. Any complaints with any official board or agency filed against the applicant in connection with his or her activities as a property manager, property owner or contractor, and their disposition; and

3. Copies of code violation notices and records of correction of violations with respect to properties under applicant's direct control for previous three years.

(d) Registration may be denied to any applicant where the Department finds any of the following on the basis of the applicant's disclosure:

1. The nature of the applicant's past criminal convictions materially affects the ability of the applicant to act successfully as a receiver;

2. The nature of the complaints filed against the applicant materially affects the ability of the applicant to act successfully as a receiver; or

3. The magnitude of the code violations on properties under the applicants control, and/or the failure of applicant to correct violations in a timely manner, materially affect the ability of the applicant to act successfully as a receiver.

(e) In order to remain registered, each applicant must submit a registration renewal request annually, which shall

include disclosure of any matters taking place in the previous year requiring disclosure under (c) above.

(f) The organization shall demonstrate that it has experience in obtaining funding from State, Federal, municipal or private sources.

(g) Monitoring: Every two years, qualified entities shall be required to provide the Department with a report and a certification on their standing with the court on any project for which they have been designated a receiver. The report shall include the following information:

1. The location of the project, city and county;
2. The total number of units;
3. The total number of low income units and of moderate income units; and
4. Funding sources.

APPENDIX A

(RESERVED)

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.
 Repealed by R1996 d.226, effective May 20, 1996.
 See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

APPENDIX B

Distressed Urban Municipalities—Maximum Subsidy Rental Units

<u>Rent *</u>	<u>Studio/SRO</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>
1,100 or more	1,000	1,000	1,000	1,000	1,000
1,075	1,000	1,000	1,000	1,000	3,000
1,050	1,000	1,000	1,000	1,000	5,500
1,025	1,000	1,000	1,000	2,000	8,000
1,000	1,000	1,000	1,000	4,500	10,500
975	1,000	1,000	1,000	7,000	13,000
950	1,000	1,000	3,500	9,500	15,500
925	1,000	1,000	6,000	12,000	18,000
900	1,000	2,500	8,500	14,500	20,500
875	1,000	5,000	11,000	17,000	23,000
850	1,000	7,500	13,500	19,500	25,500
825	1,000	10,000	16,000	22,000	26,000
800	1,000	12,500	18,500	24,500	30,500
775	1,000	15,000	21,000	27,000	33,000
750	2,500	17,500	23,500	29,500	35,500
725	5,000	20,000	26,000	32,000	38,000
700	7,500	22,500	28,500	34,500	40,500
675	10,000	25,000	31,000	37,000	43,000
650	12,500	27,500	33,500	39,500	45,500
625	15,000	30,000	36,000	42,000	48,000
600	17,500	32,500	38,500	44,500	50,500
575	20,000	35,000	41,000	47,000	53,000
550	22,500	37,500	43,500	49,500	55,500

Rent *	Studio/SRO	1 BR	2 BR	3 BR	4 BR
525	25,000	40,000	46,000	52,000	58,000
500	27,500	42,500	48,500	54,500	60,500
475	30,000	45,000	51,000	57,000	63,000
450 or less	32,500	47,500	53,500	59,500	65,500

* Rent includes tenant paid utilities. For rents in between those listed, interpolate.

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 that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

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. The Department may waive all or part of the unit size deduction based on the inclusion of amenities as noted in N.J.A.C. 5:43-2.4(a)6.

The maximum allowable subsidy for any rental unit receiving a project-based Section 8 certificate from the United States Department of Housing and Urban Development or any equivalent project-based subsidy shall be \$15,000.

2. Small Projects:

For rental projects which are not receiving Low Income Housing Tax Credits:

Unit Size	Rent	Number of units in Project*	Add
SRO	\$550.00 or less	15 or less	\$10,000
SRO	\$550.00 or less	16 to 25	\$ 5,000
1 BR	\$600.00 or less	15 or less	\$12,500
1 BR	\$600.00 or less	16 to 25	\$ 7,500

Unit Size	Rent	Number of units in Project*	Add
2 BR	\$650.00 or less	15 or less	\$15,000
2 BR	\$650.00 or less	16 to 25	\$10,000
3 BR	\$700.00 or less	15 or less	\$17,500
3 BR	\$700.00 or less	16 to 25	\$12,500
4 BR	\$750.00 or less	15 or less	\$20,000
4 BR	\$750.00 or less	16 to 25	\$15,000

* The total number of units in the project, regardless of the number being considered for Balanced Housing funding.

3. Volume Cap Tax Credit Projects:

Subject to the limitations listed below, Balanced Housing rental projects which are also receiving the volume cap tax credit may add the following to the maximum subsidy:

SRO	\$10,000
1 BR	\$12,500
2 BR	\$15,000
3 BR	\$17,500
4 BR	\$20,000

In order to qualify for this added subsidy, applicants must demonstrate that the project would be eligible, in accordance with the QAP, for maximum point totals in the following categories: compliance period; social services; unit amenities; and project amenities. This additional subsidy may not be used in conjunction with a State low income housing tax credit.

New Rule R.1992 d.144, effective April 6, 1992.
 See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).
 Amended by R.1995 d.339, effective June 19, 1995.
 See: 27 N.J.R. 1508(a), 27 N.J.R. 2385(a).
 Amended by R.1996 d.226, effective May 20, 1996.
 See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).
 Amended by R.2002 d.325, effective October 7, 2002.
 See: 33 N.J.R. 3261(a), 34 N.J.R. 3500(a).
 Rewrote the section.

APPENDIX C

Non Distressed Urban Municipalities—Maximum Subsidy Rental Units

Rent *	Studio/SRO	1 BR	2 BR	3 BR	4 BR
\$1,025 or more	1,000	1,000	1,000		1,000
1,000	1,000	1,000	1,000		2,500