

**CHAPTER 80**

**NEW JERSEY HOUSING AND MORTGAGE  
FINANCE AGENCY**

**Authority**

N.J.S.A. 55:14K-5g.

**Source and Effective Date**

R.1995 d.281, effective June 5, 1995.  
See: 27 N.J.R. 986(a), 27 N.J.R. 2190(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 80, New Jersey Housing and Mortgage Finance Agency,  
expires on April 17, 2000.

**Chapter Historical Note**

Chapter 80, New Jersey Housing and Mortgage Finance Agency, was originally titled "Housing Finance Agency" and became effective March 4, 1977 as R.1977 d.71. See: 9 N.J.R. 62(c), 9 N.J.R. 164(c). Amendments were filed and became effective May 30, 1980 as R.1980 d.234. See: 12 N.J.R. 170(c), 12 N.J.R. 388(a). The Housing Finance Agency and the Mortgage Finance Agency merged and N.J.A.C. 19:1 was incorporated under this chapter, effective May 20, 1985 as R.1985 d.241. See: 17 N.J.R. 505(a), 17 N.J.R. 1258(b). Chapter 80 was readopted without change as R.1990 d.248. See: 22 N.J.R. 277(b), 22 N.J.R. 1556(a). Chapter 80 was readopted as R.1995 d.281, effective June 5, 1995. Subchapter 33 was adopted as R.1995 d. 281, effective June 5, 1995. See: 27 N.J.R. 986(a), 27 N.J.R. 2190(a). See: Source and Effective Date.

See subchapter and section levels for further amendments.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 5:80-1.1 Authority
- 5:80-1.2 Purpose and objective
- 5:80-1.3 General definitions
- 5:80-1.4 Regulations regarding Housing Projects

**SUBCHAPTER 2. ACTIONS REGARDING HOUSING  
SPONSORS**

- 5:80-2.1 Rights of housing sponsors
- 5:80-2.2 Consultation with housing sponsors
- 5:80-2.3 Temporary appointment of Agency representative to perform functions on behalf of housing sponsors

**SUBCHAPTER 3. RETURN ON EQUITY**

- 5:80-3.1 Authority
- 5:80-3.2 Housing projects prior to January 17, 1984
- 5:80-3.3 Housing projects on or after January 17, 1984
- 5:80-3.4 Conditions required for distribution
- 5:80-3.5 Waiver

**SUBCHAPTER 4. (RESERVED)**

**SUBCHAPTER 5. TRANSFER OF OWNERSHIP  
INTERESTS**

- 5:80-5.1 Definitions
- 5:80-5.2 General policy
- 5:80-5.3 Applicability
- 5:80-5.4 Procedure
- 5:80-5.5 Scope of review

- 5:80-5.6 Required documents
- 5:80-5.7 Secondary financing
- 5:80-5.8 Return on equity
- 5:80-5.9 Required payment and repayments
- 5:80-5.10 Prepayment
- 5:80-5.11 Approval and disclosure requirements

**SUBCHAPTER 6. SALE OF PROJECTS OWNED BY  
NONPROFIT CORPORATIONS TO LIMITED  
PARTNERSHIPS**

- 5:80-6.1 Definitions
- 5:80-6.2 Procedures
- 5:80-6.3 Determination of total development cost
- 5:80-6.4 Required fees and repayments
- 5:80-6.5 Use of funds with regard to projects subsidized under Section 8
- 5:80-6.6 Use of funds with regard to projects subsidized under Section 236 Interest Reduction Program
- 5:80-6.7 Investment income earned on the PSR, DCE and CDE
- 5:80-6.8 Use of DCE and CDE for development of housing
- 5:80-6.9 Additional terms of purchase
- 5:80-6.10 Tax obligations
- 5:80-6.11 Approval and disclosure requirements
- 5:80-6.12 Request for use of escrow funds
- 5:80-6.13 (Reserved)

**SUBCHAPTER 7. TENANT SELECTION STANDARDS**

- 5:80-7.1 Definitions
- 5:80-7.2 General policy
- 5:80-7.3 Screening criteria
- 5:80-7.4 Non-discrimination
- 5:80-7.5 Priorities and preferences
- 5:80-7.6 Limitations on admission of over-income tenants
- 5:80-7.7 Non-immigrant student aliens
- 5:80-7.8 Prohibited conditions for admission
- EXHIBIT A Example of prohibited discrimination practices
- EXHIBIT B Format of addendum to application for housing assistance

**SUBCHAPTER 8. OCCUPANCY REQUIREMENTS  
REGARDING INCOME**

- 5:80-8.1 General applicability
- 5:80-8.2 Maximum gross aggregate family income
- 5:80-8.3 Occupancy requirements for housing projects financed pursuant to Section 103(b)(4) of the Internal Revenue Code
- 5:80-8.4 Special Multiple Family Unit within housing projects located in municipalities affected by casino gaming
- 5:80-8.5 Recertification of income

**SUBCHAPTER 9. RENTS**

- 5:80-9.1 Purpose
- 5:80-9.2 Applicability
- 5:80-9.3 Rent determination
- 5:80-9.4 Rent increase application
- 5:80-9.5 Additional rent increases in given fiscal year
- 5:80-9.6 Notice to tenants and cooperators
- 5:80-9.7 Agency review
- 5:80-9.8 Rent increases approvable by the Department of Housing and Urban Development
- 5:80-9.9 Increases approved by Agency
- 5:80-9.10 Increase subject to hearing
- 5:80-9.11 Notice of final approval
- 5:80-9.12 Effective date of increase
- 5:80-9.13 Rent increases for low and/or moderate income projects without Federal project-based rent subsidies

**SUBCHAPTER 10. LOANS TO LENDERS FOR SINGLE FAMILY MORTGAGE LOANS**

- 5:80-10.1 Authority
- 5:80-10.2 Requests for loans
- 5:80-10.3 Allocation of loans
- 5:80-10.4 Award of loans
- 5:80-10.5 Interest and other terms of loan
- 5:80-10.6 Collateral for loans
- 5:80-10.7 Application of loan proceeds; restriction as to single family mortgage loans
- 5:80-10.8 Restrictions on return realized by mortgage lenders
- 5:80-10.9 Fees and charges of the Agency; loan account
- 5:80-10.10 Purchase of Agency bonds

**SUBCHAPTERS 11 THROUGH 12. (RESERVED)**

**SUBCHAPTER 13. MAKING OR PURCHASING ELIGIBLE LOANS FOR SINGLE FAMILY MORTGAGES**

- 5:80-13.1 Authority
- 5:80-13.2 Commitment applications
- 5:80-13.3 Allocation of commitments
- 5:80-13.4 Execution of mortgage purchase agreement, mortgage servicing agreement; Term Sheet; Notice of Acceptance
- 5:80-13.5 Eligible neighborhoods
- 5:80-13.6 Limitations on loans
- 5:80-13.7 Regulation of points charged by mortgage sellers
- 5:80-13.8 Refinancing of pre-existing single family mortgage loans
- 5:80-13.9 Purchase of Agency bonds
- 5:80-13.10 Return on equity for eligible loans

**SUBCHAPTER 14. MAKING OR PURCHASING ELIGIBLE LOANS FOR SINGLE FAMILY HOME IMPROVEMENT**

- 5:80-14.1 Commitment applications
- 5:80-14.2 Allocation of commitments
- 5:80-14.3 Execution of note purchase agreement
- 5:80-14.4 Unsecured single family home improvement loans
- 5:80-14.5 Eligibility requirements
- 5:80-14.6 Regulations of points charged by mortgage sellers
- 5:80-14.7 Refinancing of pre-existing debt
- 5:80-14.8 Purchase of Agency bonds

**SUBCHAPTERS 15 THROUGH 16. (RESERVED)**

**SUBCHAPTER 17. PREVAILING WAGES**

- 5:80-17.1 Authority
- 5:80-17.2 Applicability of prevailing wages

**SUBCHAPTER 18. DEBARMENT AND SUSPENSION FROM AGENCY CONTRACTING**

- 5:80-18.1 Definitions
- 5:80-18.2 Causes for debarment of a person(s)
- 5:80-18.3 Conditions affecting the debarment of a person(s)
- 5:80-18.4 Procedures; period of debarment; scope of debarment affecting the debarment of a person(s)
- 5:80-18.5 Causes for suspension of a person(s)
- 5:80-18.6 Conditions for suspension of a person(s)
- 5:80-18.7 Procedures; period of suspension; scope of suspension affecting the suspension of a person(s)
- 5:80-18.8 Prohibited activities of persons; reporting requirement
- 5:80-18.9 Extent of debarment and suspension
- 5:80-18.10 Prior notice by the Agency
- 5:80-18.11 List of debarred and suspended
- 5:80-18.12 Discretion
- 5:80-18.13 Lists of other agencies

**SUBCHAPTER 19. WAIVERS**

- 5:80-19.1 Waivers

**SUBCHAPTER 20. CERTIFICATION AND RECERTIFICATION OF INCOME**

- 5:80-20.1 Authority
- 5:80-20.2 General applicability
- 5:80-20.3 Documentation
- 5:80-20.4 Calculation of income
- 5:80-20.5 Recertification periods and procedures
- 5:80-20.6 Failure to recertify
- 5:80-20.7 Adjustments in tenancy
- 5:80-20.8 Surcharges
- 5:80-20.9 Eviction
- 5:80-20.10 Confidentiality

**SUBCHAPTER 21. TRANSFER OF SERVICING OF SINGLE FAMILY MORTGAGE LOANS**

- 5:80-21.1 General applicability
- 5:80-21.2 Agency review and approval
- 5:80-21.3 Transfer fees
- 5:80-21.4 Subsequent transfers

**SUBCHAPTER 22. AFFIRMATIVE FAIR HOUSING MARKETING**

- 5:80-22.1 Definitions
- 5:80-22.2 Purpose of the Affirmative Fair Housing Marketing Plan
- 5:80-22.3 Who submits a plan
- 5:80-22.4 Plan submission deadlines
- 5:80-22.5 Format of the Affirmative Fair Housing Marketing Plan
- 5:80-22.6 Direction of marketing activity
- 5:80-22.7 Marketing program
- 5:80-22.8 Community contact
- 5:80-22.9 Future marketing activities for rental units only
- 5:80-22.10 Assessment of marketing efforts
- 5:80-22.11 Composition of the prospective occupant pool
- 5:80-22.12 Demographic characteristics of income eligible population in need
- 5:80-22.13 Residency preferences
- 5:80-22.14 Staff experience and instructions for fair housing training
- 5:80-22.15 Other indicators of successful implementation
- 5:80-22.16 Approval of the Affirmative Fair Housing Marketing Plan
- 5:80-22.17 The Management Plan
- 5:80-22.18 Notification of intent to begin marketing
- 5:80-22.19 Preoccupancy conference
- 5:80-22.20 Marketing for initial sales or rent-up
- 5:80-22.21 Assessment of the Plan's implementation
- 5:80-22.22 Modification of the approved Affirmative Fair Housing Marketing Plan
- 5:80-22.23 Record keeping and recording requirements
- 5:80-22.24 Future marketing activities for rental projects
- 5:80-22.25 Monitoring

**SUBCHAPTER 23. HOUSING INCENTIVE NOTE PURCHASE PROGRAM**

- 5:80-23.1 Authority
- 5:80-23.2 Purpose
- 5:80-23.3 Definitions
- 5:80-23.4 Housing Incentive Note Purchase Fund
- 5:80-23.5 Authority to enter into housing incentive note purchase agreements
- 5:80-23.6 Applications
- 5:80-23.7 Housing incentive note purchase commitment and requirements
- 5:80-23.8 Housing incentive note purchase agreement requirements
- 5:80-23.9 Fees
- 5:80-23.10 No discrimination

**SUBCHAPTER 24. LEASE-PURCHASE PROGRAM AUTHORITY**

- 5:80-24.1 Authority
- 5:80-24.2 Purpose
- 5:80-24.3 Definitions

- 5:80-24.4 Authority to enter into purchase agreements
- 5:80-24.5 Purchase agreement requirements
- 5:80-24.6 Application
- 5:80-24.7 Authority to enter into lease-purchase agreements

**SUBCHAPTER 25. (RESERVED)****SUBCHAPTER 26. HOUSING AFFORDABILITY CONTROLS**

- 5:80-26.1 Purpose and applicability
- 5:80-26.2 Definitions
- 5:80-26.3 Length of controls on affordability
- 5:80-26.4 Agreements regarding affordability controls
- 5:80-26.5 Calculation of initial/purchase price: owner-occupied units
- 5:80-26.6 Calculation of resale price: owner-occupied units
- 5:80-26.7 Referral of household to units: owner-occupied units
- 5:80-26.8 Hardship waiver: owner-occupied units
- 5:80-26.9 Exempt transactions: owner-occupied units
- 5:80-26.10 Owner-occupied rehabilitated units
- 5:80-26.11 Lease or rental of owner-occupied units
- 5:80-26.12 Initial rents: rental units
- 5:80-26.13 Vacancies: rental units
- 5:80-26.14 Tenant selection: rental units
- 5:80-26.15 Leases: rental units
- 5:80-26.16 Rent adjustments
- 5:80-26.17 Transfer of ownership: rental units
- 5:80-26.18 Determination of applicant households
- 5:80-26.19 Determination and referral of eligible households
- 5:80-26.20 Assignment or sublease of rental units
- 5:80-26.21 Foreclosure: owner-occupied and rental units
- 5:80-26.22 Agency grants or loans
- 5:80-26.23 Contractual agreements with municipalities or developers

**SUBCHAPTER 27. (RESERVED)****SUBCHAPTER 28. NONPUBLIC RECORDS**

- 5:80-28.1 Nonpublic records

**SUBCHAPTER 29. INVESTMENT OF HOUSING PROJECT FUNDS**

- 5:80-29.1 Permitted investments
- 5:80-29.2 (Reserved)
- 5:80-29.3 General applicability

**SUBCHAPTER 30. RESIDUAL RECEIPTS**

- 5:80-30.1 Definitions
- 5:80-30.2 Uses of residual receipts
- 5:80-30.3 Request for use of residual receipts
- 5:80-30.4 Agency review and approval
- 5:80-30.5 Disbursement of residual receipts

**SUBCHAPTER 31. ATTORNEY SERVICES**

- 5:80-31.1 Applicability
- 5:80-31.2 Scope of services
- 5:80-31.3 Maximum fees
- 5:80-31.4 Agency approval

**SUBCHAPTER 32. HOUSING INVESTMENT SALES**

- 5:80-32.1 Definitions
- 5:80-32.2 Realization of maximum additional return
- 5:80-32.3 Application procedure
- 5:80-32.4 Required documents
- 5:80-32.5 Fee
- 5:80-32.6 Closing
- 5:80-32.7 Developer's fee and return on equity

**APPENDIX EXAMPLE OF APPLICATION OF SUBCHAPTER RULES****SUBCHAPTER 33. LOW INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN**

- 5:80-33.1 Introduction
- 5:80-33.2 Definitions
- 5:80-33.3 Application cycles
- 5:80-33.4 Urban Cycle
- 5:80-33.5 Suburban/Rural Cycle
- 5:80-33.6 Special Needs Cycle
- 5:80-33.7 Final Cycle
- 5:80-33.8 Reserve
- 5:80-33.9 Application fee schedule
- 5:80-33.10 Cycle deadlines
- 5:80-33.11 Application to a cycle/eligibility requirements
- 5:80-33.12 Application to the Reserve B
- 5:80-33.13 Scoring and ranking
- 5:80-33.14 Point system for the Urban Cycle
- 5:80-33.15 Point system for the Suburban Cycle
- 5:80-33.16 Point system for the Special Needs Cycle
- 5:80-33.17 Point system for the Final Cycle
- 5:80-33.18 Tie-breaker system
- 5:80-33.19 Municipal comment
- 5:80-33.20 Application needs analysis
- 5:80-33.21 Committee review
- 5:80-33.22 Allocation needs analysis
- 5:80-33.23 Reservations, allocations and binding commitments
- 5:80-33.24 Obtaining IRS Form 8609
- 5:80-33.25 Placed in service needs analysis
- 5:80-33.26 Project cost certification
- 5:80-33.27 Extended use agreement
- 5:80-33.28 Returning credits
- 5:80-33.29 Applicant's affirmative obligation to disclose changes
- 5:80-33.30 Compliance monitoring
- 5:80-33.31 NJHMFA review
- 5:80-33.32 Compliance monitoring fee
- 5:80-33.33 Inspection
- 5:80-33.34 Notification of noncompliance
- 5:80-33.35 Confidentiality of tax credit applications, and information
- 5:80-33.36 (Reserved)

**SUBCHAPTER 1. GENERAL PROVISIONS****5:80-1.1 Authority**

These regulations are issued under and pursuant to the authority of the New Jersey Housing and Mortgage Finance Agency Law of 1983 constituting Chapter 530 of the Laws of 1983, N.J.S.A. 55:14K-1 et seq.; specifically N.J.S.A. 55:14K-5(g).

**5:80-1.2 Purpose and objective**

(a) These regulations are established to effectuate and shall be applied to accomplish the general purposes of the New Jersey Housing and Mortgage Finance Agency including:

1. Assuring the availability of rental and owner occupied housing;
2. Stimulating the construction, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of housing opportuni-

ties for New Jersey residents particularly those of low and moderate income;

3. Enhancing the production capacity of the private sector in meeting the housing needs of residents of New Jersey;

4. Assisting in the revitalization of the State's urban areas; and

5. Responding to changing housing demographic and economic circumstances for the development of innovative and flexible financing vehicles.

### 5:80-1.3 General definitions

"Act" shall mean the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1 et seq.

"Collateral" shall mean with respect to any Loan those securities, mortgages or other instruments defined as eligible pursuant to the terms of the Assignment of Collateral and Trust Agreement relating to such Loan.

"Collateral Requirement" shall mean, as of any date of calculation and with respect to any Loan, the amount at which Collateral securing such Loan is required to be maintained pursuant to the terms of the Assignment of Collateral and Trust Agreement relating to such Loan.

"Home Improvement Loan Program Commitment" shall mean the aggregate unpaid principal amount of Home Improvement Loans which a Mortgage Seller offers to deliver and sell to the Agency and the Agency agrees to purchase, such sale and purchase to be made under a Note Purchase Agreement.

"Housing Project" or "Project" shall mean any work or undertaking other than a continuing care retirement community, whether new construction or rehabilitation which is designed for the primary purpose of providing rental housing of more than 25 dwelling units.

"Housing Sponsor" shall mean any person, partnership, corporation or association to which the Agency has made or proposes to make a loan, either directly or indirectly through an institutional lender, for a Housing Project.

"Mortgage Purchase Agreement" shall mean an agreement, entered into between a Mortgage Seller and the Agency, under which the Mortgage Seller agrees to deliver and sell to the Agency and the Agency agrees to purchase Mortgage Loans.

"Mortgage Servicing Agreement" shall mean an agreement entered into between a Mortgage Seller or other person acceptable to the Agency, under which the Mortgage Seller or other person agrees to service the Mortgage Loans purchased by the Agency from such Mortgage Seller under a Mortgage Purchase Agreement.

"Note Purchase Agreement" shall mean an agreement, entered into between a Mortgage Seller and the Agency, under which the Mortgage Seller agrees to deliver and sell to the Agency and the Agency agrees to purchase single-family home improvement loans.

"Notice of Acceptance" shall mean the Notice of Acceptance by the Agency to the mortgage Seller of an Application.

"Primarily residential in character" as set forth in N.J.S.A. 55:14K-3(e) shall mean:

1. With regard to an individual unit, structure, or property, that at least 60 percent of the net sheltered area, not including areas for circulation, utilities and common space, is or will be upon completion of scheduled improvements used exclusively as a residence for one or more persons; or

2. With regard to a Project or area, that at least 60 percent of the properties in the area or 60 percent of the floor area in the Project, not including areas for circulation, utilities, and open space, consists of units, properties, or structures devoted primarily to residential use.

"Single family mortgage loan" shall mean any mortgage loan for a structure which contains no more than four dwelling units at least one of which is owner-occupied and may include an owner-occupied single dwelling unit within a condominium or cooperative apartment. Those areas which are non-residential in use shall not exceed those specified by the Federal Housing Administration Property Standards for one or two living units as in effect from time to time.

"Single family home improvement loan" shall mean an eligible loan for the rehabilitation or improvement of a unit or structure which contains no more than four dwelling units where at least 90 percent of said structure or single dwelling unit is devoted to residential use, and at least one such dwelling unit is owner-occupied.

"Term sheet" shall mean the statement of terms, constituting part of the Notice of Acceptance of a Commitment, governing the sale and purchase of Mortgage Loans pursuant to a Commitment.

### 5:80-1.4 Regulations regarding Housing Projects

(a) All Agency financing in connection with Housing Projects, including eligible loans and loans to lenders made with regard to Housing Projects, shall be subject to the regulations in subchapters 2 through 9, 17 and 18. Where appropriate, other regulations within this chapter are specifically made applicable to Housing Projects. The regulations of subchapters 2 through 9, 17 and 18 shall not apply to:

1. The construction or rehabilitation of:

- i. Continuing care retirement communities;
- ii. Nonresidential facilities or structures (other than those permitted within a housing project);
- iii. Boarding houses;
- iv. Residential developments having 25 dwelling units or less; or

2. The improvement, acquisition, operation, maintenance or repair of Housing Projects or any other structure or improvement financed by the Agency (other than that determined by the Agency to constitute substantial rehabilitation). Notwithstanding the foregoing the Agency may require applicable provisions of N.J.A.C. 5:80-4 to apply to any such improvement, maintenance or repair, if it deems such application necessary; or