

JACKSON, KELLY, HOLT & O'FARRELL

(IN KENTUCKY JACKSON, KELLY, WILLIAMS & PALMORE)

ATTORNEYS AT LAW

1600 LAIDLEY TOWER

P.O. BOX 553

CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000

TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

340-1283

*W.K.*  
*mm*

MORGANTOWN OFFICE  
618 MONONGAHELA BUILDING  
MORGANTOWN, WEST VIRGINIA 26505  
TELEPHONE 304-292-7311

LEXINGTON OFFICE  
2265 HARRISBURG ROAD  
LEXINGTON, KENTUCKY 40504  
TELEPHONE 606-223-3080

LOUISVILLE OFFICE  
10100 LINN STATION ROAD  
LOUISVILLE, KENTUCKY 40223  
TELEPHONE 502-425-9355

OWENSBORO OFFICE  
255 ST. ANN STREET  
OWENSBORO, KENTUCKY 42301  
TELEPHONE 502-626-8332

November 20, 1985

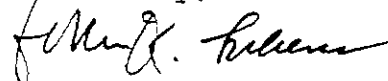
Mr. William Harrington  
Office of the Secretary of State  
State Capitol  
Charleston, WV 25305

Re: West Virginia Housing Development Fund

Dear Mr. Harrington:

I represent West Virginia Housing Development Fund, which has filed in your office its "Administrative Regulations of the Housing Development Fund, State Mortgage And Industrial Development-Pool", Series I (1982). As you know from talking with Joe Hatfield, the Executive Director of the Housing Development Fund, all of the money in that pool has been used to finance single-family mortgage loans. However, because of the continuing nature of the duties of the Housing Development Fund with respect to those loans, and the fact that provisions are included in the Regulation for the future assumption of such loans by purchasers from the original borrowers, and also for the prospective increase in interest rates on such loans, we have advised the Housing Development Fund that the Regulations should not be deleted. I certainly appreciate your desire to rid your file of as many out-dated regulations as possible, but I hope you will appreciate our position that, legally, it is essential for the Regulations to stay in effect as long as these loans are outstanding. If you have any questions regarding this matter, please call me.

Sincerely,

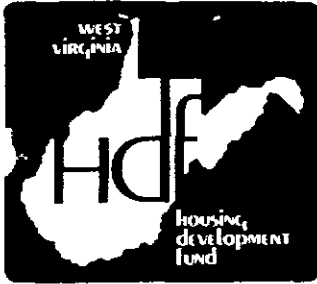


JOHN R. LUKENS

JRL/sr

cc: Mr. Joe W. Hatfield

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814 VIRGINIA STREET, EAST CHARLESTON, WEST VIRGINIA 25301 TELEPHONE: (304) 345-6475

CERTIFICATE OF REFILING  
OF ADMINISTRATIVE RULES

To: The Honorable A. James Manchin  
Secretary of State  
and  
The Legislative Rule-Making  
Review Committee

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 12-27-82  
Administrative Law Division

The undersigned, Joe W. Hatfield, Executive Director of the West Virginia Housing Development Fund, hereby resubmits for refiling pursuant to W. Va. Code § 29A-2-5(a) (i) to the Secretary of State of West Virginia two copies and (ii) to the Legislature Rule-Making Review Committee fifteen copies, of the West Virginia Administrative Regulations of the West Virginia Housing Development Fund, Series I (1982). These Regulations were promulgated under the authority of Chapter Thirty-One, Article Eighteen-B, Section One, et seq., of the Code of West Virginia, 1931, as amended.

I hereby CERTIFY that the enclosed Regulations are true and accurate copies of the Regulations issued and proposed by the West Virginia Housing Development Fund.

WITNESS my signature this 27th day of December, 1982.

- Joe W. Hatfield by J124  
Joe W. Hatfield, Executive Director  
of West Virginia Housing  
Development Fund

ADMINISTRATIVE REGULATIONS  
OF THE  
WEST VIRGINIA HOUSING DEVELOPMENT FUND  
STATE MORTGAGE AND INDUSTRIAL  
DEVELOPMENT INVESTMENT POOL

INDEX

SERIES I  
(1982)

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~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~ e

WEST VIRGINIA HOUSING DEVELOPMENT FUND

~~W. Va. Code §§ 31-18B-1, et seq.~~ c  
Series #e1.  
(1982)e

Subject: Refiling of Administrative rules pertaining to administration of single-family mortgage loans for West Virginia State Board of Investments under State Mortgage and Industrial Development Investment Pool

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Section 1. General

1.01. Scope - These rules are being refiled pursuant to W. Va. Code § 29A-2-5(a) and are identical with the rules filed in the office of the Secretary of State of West Virginia on July 1, 1982. These rules apply to the origination, purchase and servicing of single-family mortgage loans by West Virginia Housing Development Fund (the "Housing Development Fund") and its agents, on behalf of the West Virginia State Board of Investments (the "Board of Investments"), from funds provided in the "State Mortgage and Industrial Development Investment Pool" pursuant to W. Va. Code §§ 31-18B-1, et seq. These rules are issued to implement the loan program mandated by such legislation, to provide procedures designed to safeguard the investments to be made with funds from the Mortgage Investment Pool and to effectively discharge the duties imposed on the Housing Development Fund as administrator of the program on behalf of the Board of Investments. These rules include

legislative rules, interpretive rules and procedural rules, which are hereby identified as follows:

(a) Legislative Rules - Section 2.03(b), (c) and (i) are legislative rules, relating to W. Va. Code § 31-18B-7.

(b) Interpretive Rules - Section 2.01, Section 2.02, Section 2.03(d) through (h), Section 2.03(j) and (k), Section 3 and Section 4 are interpretive rules, relating to W. Va. Code § 31-18B-8.

(c) Procedural Rules - Section 2.04, Section 2.05, Section 2.06 and Section 5 are procedural rules, relating to W. Va. Code § 31-18B-11.

1.02. Authority - These rules were issued pursuant to the authority of W. Va. Code §§ 31-18B-1, et seq., and are refiled pursuant to the requirement of W. Va. Code § 29A-2-5(a).

1.03. Filing Date - These proposed regulations were issued on the 11th day of June, 1982, and filed on the 1st day of July, 1982, and refiled on December 27, 1982, in the office of the Secretary of State of West Virginia.

1.04. Effective Date - These proposed regulations became effective on the 15th day of August, 1982, except for the legislative rules, which will remain effective as emergency rules until authorized by the Legislature of West Virginia.

## Section 2. Description of Program

2.01. General Purpose - The Legislature of West Virginia has created and established the State Mortgage and Industrial Development Pool from which the Board of Investments shall make available for investment in single-family mortgage loans the

sum of \$20 million on June 11, 1982, the sum of \$20 million on October 1, 1982, and the sum of \$10 million on January 1, 1983. Unless sooner invested in single-family mortgage loans, the funds revert to the exclusive control of the Board of Investments one year from the date on which the funds become part of the Mortgage Investment Pool.

2.02. Definitions - The following terms have the following meanings when used in these regulations:

(a) "Act" means Article 18B of Chapter 31 of the Code of West Virginia, 1931, as amended.

(b) "Approved Servicer" means any person legally authorized to engage in the business of servicing loans of the general character of Program Loans in the State, having one or more offices in the State at which residential mortgage loans are originated and which has been approved by and entered into a Program Loan Servicing Agreement with the Board of Investments. An Approved Servicer which is a bank or savings and loan association must be under the supervision of the Department of Banking of the State or be a national banking association or a federal savings and loan association having its principal place of business in the State.

(c) "Closing Costs" mean the fees and charges customarily collected by a lender from a borrower in a residential real estate mortgage loan transaction, to pay real estate taxes, mortgage insurance premiums, property insurance premiums, mortgagee title insurance premiums, survey fees, fees

for preparation of the deed, deed of trust, settlement statement and related documents, escrows for future payment of taxes and insurance, official fees and fees for notarizing deeds and other documents, appraisal fees, credit reports and other items of a similar nature.

(d) "Eligible Borrower" means a person or family, irrespective of race, sex, national origin, religion or location in this State, whose gross family income for each of the two calendar years preceding the year in which the commitment to make the Program Loan is issued is \$50,000 or less, and who is otherwise eligible under these regulations, who uses the proceeds of a Program Loan solely for the purpose of (i) purchasing real estate upon which is situate an Eligible Single-Family Dwelling, (ii) the construction of an Eligible Single-Family Dwelling upon real estate by the Eligible Borrower to provide housing for only himself and his family, (iii) the payment of a loan theretofore made for the construction of an Eligible Single-Family Dwelling or (iv) purchasing real estate upon which is situate an Eligible Single-Family Dwelling and making additions or improvements thereto.

(e) "Eligible Single-Family Dwelling" means a detached unit on a separate piece of land used solely for the housing of one family, and only one family, which family owns the Eligible Single-Family Dwelling and the land, and includes townhouses or row houses owned and used by an Eligible Borrower as a residential dwelling, excluding mobile homes or double-wide units. The land for an Eligible Single-Family Dwelling

may not be more or less than that needed for basic livability, as determined by the Housing Development Fund.

(f) "Mortgage Investment Pool" means the portion of the State Mortgage and Industrial Development Investment Pool created under the Act, in the total amount of \$50 million, required by the Act to be invested by the Housing Development Fund.

(g) "Participating Lender" means any lending institution licensed to do business in the State authorized to engage in the business of making loans of the general character of Program Loans and which is approved by and enters into a Program Loan Purchase Agreement with the Board of Investments. A Participating Lender which is a bank or savings and loan association must be under the supervision of the Department of Banking of the State or be a national banking association or a federal savings and loan association having its principal place of business in the State.

(h) "Program Loan" means a loan from the Mortgage Investment Pool, made by a Participating Lender to an Eligible Borrower pursuant to these regulations.

(i) "Real Estate Broker" means, with respect to the sale of an Eligible Single-Family Dwelling, any person, partnership, association or corporation, who for a fee, commission or other valuable consideration or with the intention or expectation of receiving or collecting the same, performs any of the services or activities necessary to cause him or it to

be considered a real estate broker within the meaning of W. Va. Code §§ 47-12-1 et seq.

(j) "State" means the State of West Virginia.

2.03. Terms of Program Loans - Program Loans shall be subject to the following requirements:

(a) Amount of Loan - The original principal amount of a Program Loan may not exceed \$75,000.

(b) Term of Loan - The principal of and interest on a Program Loan shall be amortized over a period not to exceed thirty years.

(c) Interest Rate; Future Rate Increase - The initial interest rate on a Program Loan may not exceed the monthly index of long-term United States bond yields for the calendar month preceding the date on which the commitment for such loan is made, and for purposes of these regulations the monthly index of long-term United States government bond yields means the monthly unweighted average of the daily unweighted average of the closing bid yield quotations in the over-the-counter market for all outstanding United States Treasury bond issues which mature twenty years or more from the date the index is calculated, but shall not include such bonds as are redeemable at par for repayment of federal estate taxes. In no event, however, may the initial interest rate be less than ten percent per annum nor greater than twelve percent per annum, plus one-half percent per year to compensate the person providing servicing for the Program Loan. At the option of the Housing

Development Fund, the promissory note or deed of trust pertaining to the Program Loan may provide that on the tenth anniversary date of the Program Loan the interest rate will increase to the lesser of (i) fourteen percent per annum or (ii) two percent above the monthly index of long-term United States government bond yields, as defined above, for the calendar month preceding the month in which such rate increase occurs; however, the interest rate may not be increased if the Eligible Borrower presents evidence that his average gross income for the two years prior to the date on which such interest rate increase is to occur is no more than one-sixth greater than his average gross income was at the time the Program Loan was made. If a Program Loan was assumed prior to its tenth anniversary, the income increase test will be based on the income of the assumer on the date the Program Loan was assumed. In the event such interest rate is increased, the Housing Development Fund may provide in the promissory note or deed of trust that the monthly payments of principal and interest will increase so as to fully amortize the then unpaid principal balance at such increased interest rate over the remaining life of the Program Loan.

(d) Interest During Construction - In the case of a Program Loan made to finance the construction of an Eligible Dwelling or to finance construction of improvements to an Eligible Dwelling, the promissory note may provide for the payment of interest only, based on unpaid principal loan balances, during the anticipated construction period, which

interest period shall be in addition to the thirty-year term over which the Program Loan will be amortized.

(e) Basis for Determining Maximum Loan Amount - In no event may the original principal amount of a Program Loan exceed 85% of the lesser of the appraised value or the current sale price of the Eligible Single-Family Dwelling. For a construction loan the original principal amount may not exceed the least of (i) 85% of the total of the appraised value of the unimproved lot and the estimated appraised value of the improvements, (ii) 85% of the total of the appraised value of the unimproved lot and the amount of the construction contract or (iii) the total of the amount of the construction contract and the unpaid balance of any indebtedness secured by a deed of trust on the unimproved lot.

(f) Security for Loan - Each Program Loan will be secured by a first lien deed of trust on the Eligible Single-Family Dwelling, subject only to such permitted encumbrances as provided for in the Procedural Guide issued by the Housing Development Fund.

(g) Mortgage Insurance - Each loan must be insured for at least 20% of its amount either by the Federal Housing Administration ("FHA"), the Veterans Administration ("VA") or a private mortgage insurance company licensed in the State.

(h) No Refinancing - A Program Loan may not be made to refinance existing indebtedness of an Eligible Borrower, except bona fide construction loans obtained to finance the construction of an Eligible Single-Family Dwelling.

(i) Assumption of Program Loans - If an Eligible Single-Family Dwelling is purchased by a person or family who is qualified as an Eligible Borrower within the meaning of these regulations, the Program Loan may be assumed by such purchaser. A purchaser will satisfy the income requirement if his gross family income for each of the two calendar years preceding the assumption does not exceed the sum of \$50,000, adjusted upward or downward to reflect the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers - All Items published by the Bureau of Labor Statistics, U. S. Department of Labor (1967 = 100), between June, 1982 and the corresponding index figure for the quarter preceding the date of the assumption. If that index should be discontinued, the most nearly comparable available index may be used.

(j) Buyers' and Sellers' Certificate - As a condition to making a Program Loan, the Participating Lender shall obtain a certificate from the buyers and sellers of the Eligible Single-Family Dwelling, in form prescribed by the Housing Development Fund, that the sellers have not, within the two-year period preceding the date of the purchase contract or if none the date of sale, offered the Eligible Single-Family Dwelling to the Eligible Borrower for a price less than the sale price.

(k) Permitted Fees and Charges - Participating Lenders will collect an amount equal to 2% of the original amount of the Program Loan from the person who sells the

Eligible Single-Family Dwelling to the Eligible Borrower and 1% from the Real Estate Broker, if any. If the Eligible Borrower purchases an unimproved lot with Program Loan proceeds, the Participating Lender will collect from the seller an amount equal to 2% of the sales price of the lot. In the event the Program Loan will be used by an Eligible Borrower to finance the construction of an Eligible Single-Family Dwelling on a lot already owned by the Eligible Borrower, or if the seller in the transaction is selling the Eligible Borrower only an unimproved lot, the Participating Lender may collect from the Eligible Borrower (i) an amount not exceeding 1% of the original amount of the Program Loan sufficient to reimburse the Participating Lender, after applying any amount collected from the seller of any unimproved lot, for its expenses in originating the Program Loan, (ii) an amount not exceeding 1/2 of 1% of the original amount of the Program Loan necessary to pay the costs of the Housing Development Fund in making the Program Loan and processing the application and (iii) an amount necessary to pay the first year's premium for mortgage insurance for the Program Loan. In addition, the Participating Lender may collect from the Eligible Borrower reasonable Closing Costs. In the case of a construction loan, the Participating Lender may, in addition to the above fees and charges, charge and collect from a contractor entering into a construction contract with the Eligible Borrower an amount not exceeding 1% of the original amount of the Program Loan necessary to reimburse the Participating Lender for its costs in administering the

construction loan and may charge such contractor fees not exceeding \$100 for inspecting work performed under the construction contract.

2.04. Origination and Servicing of Program Loans - The Board of Investments will contract for the origination and servicing of Program Loans as follows:

(a) Origination - The Board of Investments will enter into a Program Loan Purchase Agreement with each Participating Lender pursuant to which the Participating Lender will originate, and the Housing Development Fund will purchase on behalf of the Board of Investments, Program Loans. The form of such Program Loan Purchase Agreement will be provided by the Housing Development Fund and is referred to later in these Regulations.

(b) Servicing - The Board of Investments will enter into a Program Loan Servicing Agreement with each Approved Servicer to provide for the servicing of Program Loans, and in addition the Board of Investments may contract with a "master servicer" to administer and coordinate the servicing of Program Loans. The form of Program Loan Servicing Agreement is provided by the Housing Development fund and is referred to later in these Regulations. In no event will the total annual fee for servicing a Program Loan exceed an amount equal to 1/2 of 1% of the outstanding principal balance of the Program Loan.

2.05. Allocation of Funds and Mortgage Investment Pool - In the interest of assuring to the fullest extent possible that Program Loans will be fairly distributed and made available to residents of the State without regard to the area of the State

in which they reside, funds in the Mortgage Investment Pool will be allocated among the counties of the State on the basis of the respective populations of such counties according to the 1980 United States Census, but in no case will a county be entitled to fewer than one Program Loan. If the Housing Development Fund determines as of the date three months after each segment of funds is made available to the Mortgage Investment Pool that the funds allocated to a county or counties will not be used for Program Loans, the Housing Development Fund may reallocate such funds in the manner deemed most likely to maximize the making of Program Loans. The Housing Development Fund has determined that the amount of \$12,500,000, which the Act requires be designated and restricted to new and never occupied single-family residential units, will be made available from the funds to be provided to the Mortgage Investment Pool on June 11, 1982, subject to the right of the Housing Development Fund to allocate funds later to be provided to the Mortgage Investment Pool to such \$12,500,000 requirement in order to maximize the making of Program Loans.

2.06. Approval of Program Loans; Submission of Applications - Program Loans will be made to persons determined by the Housing Development Fund to be Eligible Borrowers in the order in which the complete loan applications are approved by the Housing Development Fund. No applications or other Program Loan documents may be dated prior to June 11, 1982, and all applications sent to the Housing Development Fund by United

States mail must be postmarked not earlier than June 11, 1982. The Housing Development Fund will maintain a log for each business day showing the date on which each application is received, and all applications received each day will be selected at random and numbered sequentially. Completed loan applications will be considered for approval based first upon the date received and then upon assigned number. Completed loan applications will be approved until the entire \$50 million Mortgage Investment Pool is committed, i.e., approvals shall not be allocated to the three segments of funds to be made available for the Mortgage Investment Pool, unless the Housing Development Fund determines it to be in the best interest of the Program. If any application in the judgment of the Housing Development Fund is incomplete or deficient, the application will lose its priority. The Housing Development Fund may, in its discretion, return the application to the Participating Lender or retain the application and request appropriate corrective action or additional documentation from the Participating Lender.

### Section 3. Determining Eligibility for Program Loans

3.01. General - In order to be eligible for a Program Loan, a person or family must meet the definition of an Eligible Borrower as provided in these regulations and must (i) be a resident or intend immediately to become a resident of the State, (ii) intend to make the Eligible Single-Family Dwelling his principal residence within a reasonable time after the

Program Loan is closed, (iii) possess the legal capacity to contract for and understand the obligations of the Program Loan, (iv) agree not to rent the Eligible Single-Family Residence during the term of the Program Loan without the written consent of the Housing Development Fund, (v) have a general financial standing acceptable to the Housing Development Fund, and meet the underwriting standards provided in these regulations.

3.02. Determination and Evaluation of Applicant's Income -

In all cases, the applicant must produce copies of his federal income tax return for each of the two years preceding the date of his application, or a letter signed by an authorized representative of the Internal Revenue Service, as a basis for determining whether the applicant's gross family income exceeded \$50,000 for either of said years. The following additional procedures must be followed by Participating Lenders in regard to determining and evaluating the income of a Program Loan applicant:

(a) Compliance with Applicable Law; Information to be Current - Participating Lenders must comply with the Federal Equal Credit Opportunity Act, Regulation B of the Federal Reserve System and all other laws applicable to taking, evaluating and acting upon loan applications. Verification of income data must not be over 60 days old.

(b) Temporary Income - Temporary income such as VA educational allowances and unemployment compensation will not be considered except insofar as it will probably be continued

for a period long enough to affect the applicant's ability to repay the Program Loan.

(c) Income from Alimony, Child Support and Maintenance - Income from alimony, child support, and maintenance payments will be considered only to the extent it is likely to be consistently made. Factors which the Participating Lender may consider in determining the likelihood of consistent payments include, but are not limited to, whether the payments are received pursuant to a written agreement or court decree, the receipt of which has been verified, the length of time the payments have been received, the regularity of receipt, the availability of procedures to compel payment, and the creditworthiness of the payor, including the credit history of the payor where available to the Participating Lender under the Fair Credit Reporting Act or other applicable laws. The Participating Lender must submit to the Housing Development Fund evidence adequate to support its determination.

(d) Overtime Income - Overtime will not be considered in evaluating repayment ability of an applicant unless: (i) income is derived due to shift work differential; (ii) scheduled by the hour, scheduled to work 42 hours per week, has been worked one year previously, and the employer states the scheduled hours will remain the same in the future; and (iii) any income derived from mileage as in the case of a truck driver, which is a regular part of salary, must be considered and substantiated by previous two years income tax returns.

(e) Commissions - When all or a major portion of the applicant's income is derived from commissions, it will be necessary to establish the stability of such income if it is to be considered in the loan analysis for the repayment of the mortgage debt or short term obligations. In order to assess the value of such income, lenders should obtain written verification of the actual amount of commissions paid to date and the manner in which they are paid. The length of the borrower's employment in this type of occupation is a very important factor. If the borrower has been employed for a relatively short time, the commissions would not be considered stable. If commissions are to be considered as stable income, the borrower would need to have been on his present job a minimum of one year.

(f) Second Job - Income from a second job will be considered only if the job has been worked for a least two years and it is likely that the job will be retained by the applicant.

(g) Self-Employment Income - Income to a self-employed applicant will be considered only if it has been received for at least two years, as substantiated by signed federal income tax returns.

(h) Retirement Income - Retirement income will be considered only if substantiated by pension fund documentation or information from the Social Security Office or the Veteran's Administration.

(i) Construction Work Verification - Construction workers who are in a union and are assigned jobs by the union must be documented and underwritten in the following manner:

1. Verification of employment from the union;
2. Verification of employment from the construction company;
3. If less than three years on the present job, submit previous verification of employment or a job history for preceding three years;

(j) Stability of Employment - Ordinarily, a minimum of four months with the present employer shall be required of each applicant. An exception to the above may be granted if it can be determined that there is no probation period, employment is in the same field as previous employment, and the employment is of a stable nature. (Employment verifications must be submitted to cover a full three years.) Three or more employment changes by the applicant within the previous five years or three changes of residence must be explained in writing by the applicant.

3.03. Assessing Applicant's Financial Strength - The following factors are to be considered by the Participating Lender in determining whether an applicant possesses the financial ability to repay the Program Loan:

(a) Credit Report - The credit report must be no more than sixty days old and must have been issued by an independent credit reporting agency acceptable to the Housing Development Fund. The credit report must be comparable to a factual data

credit report and cover a full three years. When necessary, out-of-town reports must be included. Such report must verify the applicant's current employment and all debts listed on the application, including high credit, date opened, balance, monthly payment, term and rating. Also, it must state that records have been checked for legal actions, including suits, judgments, foreclosures, garnishments and bankruptcies. It is the lender's responsibility to verify in writing, direct from the source, any indebtedness not shown on the credit report. If the credit investigation reveals debts or obligations which were not divulged by the applicant, lenders must be certain to obtain clarification as to the status of such debts from the applicant. A proper analysis requires a total correlation between the obligations claimed by the applicant and those revealed by a credit report.

(b) Housing Expense-to-Income Ratio - The applicant's total anticipated monthly housing expense (principal and interest payments, taxes, insurance premiums, planned unit development fees) excluding utility payments, may not exceed 28% of the applicant's gross monthly income.

(c) Financial Obligation-to-Income Ratio - The total of: (i) the applicant's total anticipated monthly housing expense as determined above, plus (ii) the total of all other installment debt monthly payments, plus (iii) monthly job-related expenses such as child care, plus (iv) obligatory monthly payments such as alimony, child support, and maintenance may not exceed 36% of the applicant's gross monthly income.

For purposes of this computation, financial obligations which terminate in seven months or less should not be considered unless they are of such large amounts that they put a substantial strain on the applicant's resources for any period of time. When the credit information shows open accounts of several years which are clearly of a revolving or open-end type (e.g., Sears, Wards, oil company credit cards, etc.) the regular monthly payment for such account should be considered as a long-term obligation to be included in the ratio.

(d) Personal Property Credit History - An applicant with a history of slow payments on previous indebtedness will not receive a Program Loan unless an adequate explanation for the slow payments is provided.

(e) Real Estate Credit History - This is also a consideration in evaluating an applicant's financial standing, both with regard to paying habits and financial ability to repay the Program Loan. Consequently, the applicant should provide: (i) if the applicant owns residential real property which has yet to be sold, a statement of the term of any present loan, its monthly payment amount, current pay-off and payment record; and (ii) if the property has been sold, a statement of the date when sold, the balance at that time and payment record.

(f) Judgments - Any applicant who is found to have judgments recorded against him must submit a written statement

explaining the nature and reason for the suit or judgment. All judgments must be paid before an application can be considered.

(g) Bankruptcy - An application will not be considered if the applicant is or has been a bankruptcy debtor, received a bankruptcy discharge, filed a bankruptcy petition or had an "order for relief" entered against him pursuant to the United States Bankruptcy Code within the past two years. If a bankruptcy discharge occurred longer than two years previously, the application will be considered if the following requirements are satisfied:

- (i) Credit was acceptable prior to the bankruptcy and the applicant has obtained consumer items on credit subsequent to the bankruptcy and has met the payments on these obligations in an excellent manner over a continued period.
- (ii) The bankruptcy was caused by circumstances beyond the applicant's control (e.g., unemployment, prolonged strike, medical bills not covered by insurance).
- (iii) The circumstances alleged must be verified. (Discharge document that lists all creditors filed against and the amounts).
- (iv) The applicant must submit in writing a satisfactory explanation of the bankruptcy.
- (v) If the applicant had poor credit for some time prior to the bankruptcy and indicates

lack of financial stability subsequent to the bankruptcy, the application will be disapproved.

(h) Funds on Deposit - The verification of deposits is intended to determine if the applicant has sufficient cash to make the required downpayment and to pay closing costs. If there are any discrepancies between information on the loan application and the deposits as verified, a decision should not be made on the application until resolved. The necessary funds must be on deposit when the application is taken. If the source of funds is other than savings accounts, the funds must be verified in writing. If company savings, it must be verified that it may be withdrawn at any time.

(i) Gift Letter - The most common alternative source of required cash is a gift. A gift statement is required when an applicant proposes to obtain funds from a third party. The gift statement must confirm that there is no obligation on the part of the applicant to repay these funds at any time. It must also give the relationship between the donor and the applicant and the name and address of the donor.

Section 4. Determining Eligibility of Dwelling.

4.01. General - Program Loans may be made only to finance the purchase, construction or improvement of Eligible Single-Family Dwellings. Each Participating Lender is responsible for assuring that the property which is the subject of a Program Loan is an Eligible Single-Family Dwelling. This determination will be based largely on an appraisal report made by a qualified appraiser. This report must be sufficient to support a conclusion by the Participating Lender that the condition of the property conforms with the requirements of these regulations. Normal and appropriate measures should be undertaken to verify the information contained in the appraisal, either independently or concurrently with other reviews. A Participating Lender may rely, however, on the information contained in the appraisal and plat of survey unless the Participating Lender has, or should have, reason to believe that such information is incorrect.

4.02. - Appraisal Report - Program Loan appraisals will be submitted on the appropriate form prescribed by the Housing Development Fund in the case of conventional Program Loans and on the FHA/VA equivalents in the case of FHA/VA Program Loans. FHA/VA appraisal reports will be prepared in accordance with applicable regulations and conventional Program Loan appraisals will be prepared as follows:

(a) All Blanks Completed - Each section must be filled out, those not applicable being indicated as such.

(b) Needed Repairs - The report must indicate what repairs are needed and the appraised value must reflect the completion of these repairs. A compliance inspection report will be required when repairs are needed.

(c) Consideration of Comparables - In performing the market data analysis, comparable properties may be adjusted no more than 15% in value. However, higher adjustments will be acceptable if better comparables are not available. In the case of a new construction or rehabilitation, comparable house data are required.

(d) Effect of Interest Rate - The appraiser must consider in the valuation of the Eligible Single-Family Dwelling the effect of the below-market interest rate. Because below-market interest rates tend to increase the value of a house a financing adjustment factor may be required. It is suggested that only comparable sales be used which reflect a cash sale or adjusted to indicate a cash sale, then all comparables must be adjusted to reflect the below-market interest rate loan proposed for the subject property.

(e) Location and Nature of Dwelling - The appraiser must also determine and state whether the dwelling is in a location and of a nature and design for use which is consistent with the Program requirement that the dwelling will be occupied as the principal residence of the Eligible Borrower, that no property will be included in the purchase price other than land, improvements and fixtures (i.e., no items of personal property) and that it cannot reasonably be expected to be used

in a trade or business, as an investment property or as a recreational house.

(f) Required Assumptions - The appraisal report must report the highest price which the property will bring assuming the consummation of a sale, and the passing of full title from seller to buyer by deed, under conditions whereby: (i) Buyer and seller are under no unusual pressure to buy or sell and are engaged in normal arms-length negotiations as to sales price; (ii) both parties are well informed or well advised and act prudently, each for what he considers his own best interest; (iii) reasonable exposure is given to the property in the open market; and (iv) payment is made in cash or on terms reasonably equivalent to cash, assuming typical financing terms are available in the community for similar property.

(g) Required Attachments - The appraisal report for conventional loans must have the following attachments:

1. Three photographs, one of which must show the roof of the structure, as follows:
  - a. Front and one side of the structure;
  - b. Rear and other side of structure; and
  - c. Street scene in front of structure showing dwelling and general view of neighborhood.
2. Location map referring to a landmark and showing the location of subject property to the nearest paved road.

3. Interior floor plan and exterior dimensions of all structures on the property.
4. Plans and specifications in the case of a proposed construction Eligible Single-Family Dwelling. The appraiser has the responsibility to review the plans and specifications for completeness and accuracy. Any deviations from the plans must be acknowledged by the appraiser.

4.03. Appraiser Qualifications - The Housing Development Fund will accept appraisal reports only if they are prepared by appraisers whom it has previously approved. Approval will be granted on the basis of the submission to the Housing Development Fund of a resume which includes the information required by FNMA Form 1001 (FNMA Seller's Nomination and Recommendation of Appraiser) and which indicates that the appraiser meets at least one of the following requirements:

(a) Minimum Experience and Course Work - Has a minimum of two years of single-family property appraisal experience and has completed a nationally recognized basic appraisal course.

(b) Accreditation - Is a member of one of the following professional appraisal societies: (i) American Institute of Real Estate Appraisers; (ii) National Association Independent Fee Appraisers; (iii) Society of Real Estate Appraisers; (iv) American Society of Appraisers; or (v) American Society of Farm Managers and Rural Appraisers.

(c) Minimum Experience - Has at least three years experience in single-family property appraisal.

4.04. Property Condition - In addition to the general property condition requirements stated in these regulations, the following specific requirements apply:

(a) Lot Size - Lot size must be not less and not greater than that needed for basic livability. The land must not provide, other than incidentally, a source of income to the borrower.

(b) House Size - A house must contain more than one bedroom and must have a minimum of 800 square feet.

(c) Trailers and Double-Wide Excluded - No trailers or double-wide mobile homes are acceptable.

(d) Floor Plan - A house must have an acceptable floor plan. For example, one should not enter the bath directly from the kitchen nor pass through a bedroom to gain entrance to another room in the house.

(e) Roof and Heater - No rolled roofs or unvented space heaters are permitted.

(f) Access Roads - All access roads must be year-around, all-weather roads.

(g) Electric Power - A house must be served by a minimum of 100 electrical amperes.

(h) Design - Significant evidence of poor design or construction, such as poor construction features, steep unmaintained access roads, poor painting, wet crawl spaces, weak retaining walls or foundations, poor plumbing or heating,

insufficient electrical systems, evidence of termite damage, inoperative gutters or downspouts, poor roofing, could result in Program Loan denial if not repaired.

(i) Water and Sewage - If the property is served by a non-public water and sewage system, the system must have received the approval of the State Health Department no more than 90 days earlier. If the property has been vacant for over 60 days, the size of the lot and existence of septic tank problems in the area must be considered.

Section 5. Introduction of Forms; Procedural Guide to Provide Supplementary Requirements

5.01. Forms to be Used in Program - The following forms are to be used, as appropriate, in connection with the origination and servicing of Program Loans:

1. Application to Participate (Form SB-1)
2. Certificate of Resolutions (Form SB-2)
3. Counsel's Opinion (Form SB-3)
4. Authorized Signatures (Form SB-4)
5. Program Loan Purchase Agreement (Form SB-5)
6. Program Loan Servicing Agreement (Form SB-6)
7. Participating Lender Checklist (Form SB-19)
8. Qualifying Sheet (Form SB-20)
9. Request for Verification of Employment (Form SB-21)
10. Request for Verification of Deposit (Form SB-22)
11. Residential Loan Application (Form SB-23)
12. Attachment to Application (Form SB-23a)

13. Sellers' and Buyers' Certificate (Form SB-24)
14. Contractor's Bid (Form SB-25)
15. Construction Contract (Form SB-26)
16. Residential Appraisal Report (Form SB-27)
17. Map Sketch and Photograph Addendum (Form SB-28)
18. Soil Evaluation (Form SB-29)
19. Program Loan Commitment (Form SB-30)
20. Note (Form SB-51)
21. Forebearance Letter (Form SB-51a)
22. Deed of Trust (Form SB-52)
23. Assignment (Form SB-53)
24. Termite Soil Treatment Guarantee (Form SB-54)
25. Health Department Approval (Form SB-55)
26. Construction Loan Agreement (Form SB-56)
27. Detail of Purchase Statement (Form SB-70)
28. Purchase Approval (Form SB-71)
29. Statement of Origination Fees (Form SB-72)
30. Mortgage Servicing Report (Form SB-101)
31. Schedule of Program Loans Added (Form SB-102)
32. Advance Installment Payments (Form SB-103)
33. Curtailments (Form SB-104)
34. Trial Balance Form (Form SB-105)
35. Statement of Delinquent Program Loans (Form  
SB-106)
36. Loan Paid in Full Statement (Form SB-107)
37. Assumption Agreement and Release (Form SB-108)
38. Statement of Foreclosure Expenses (Form SB-109)

39. Form of Auditors' Report (Form SB-110)
40. Notice of Delinquency (Form SB-111)
41. Servicer Recommendation (Form SB-112)
42. Letter Agreement for Servicer's Custodial Account  
(Form SB-113)
43. Reversed Payments (Form SB-114)
44. Assumption Approval Request (MGIC/MMC Form 08)
45. Custodial Account Analysis (MGIC/MMC Form 09)
46. Liquidation Recommendation (MGIC/MMC Form 10)
47. Forbearance Recommendation (MGIC/MMC Form 11)
48. Loan Payoff & Removal Report (MGIC/MMC Form 12)
49. Loan Liquidation Notice (MGIC/MMC Form 13)
50. Reinstatement of Loan in Foreclosure (MGIC/MMC  
Form 14)
51. Request for Reimbursement (MGIC/MMC Form 15)
52. MGIC Mortgage Marketing Corporation Description  
of Mortgage Delinquencies and Real Estate Owned  
(MGIC/MMC Form 16)
53. Certificate of Insurance (MGIC/MMC Form 18)
54. Property Inspection Report (MGIC/MMC Form 20)
55. Aggregate Exception System Remittance Exceptions  
(MGIC/MMC Form 470)
56. Aggregate Exception System Advice of Sub-Servicer  
Loan ID Change (Code 19) (MGIC/MMC Form 471)
57. Aggregate Exception System Advice of Property  
Address Change (Code 20) (MGIC/MMC Form 472)
58. Mortgage Remittance Summary (MGIC/MMC Form 473)

5.02. Procedural Guide; Amendments to Procedural Guide and Forms. The Housing Development Fund has issued a Procedural Guide to provide additional requirements to be followed by Participating Lenders and Approved Servicers in originating and servicing Program Loans and in selling and assigning Program Loans to the Board of Investments. The Procedural Guide is hereby made a part of the contract between the Board of Investments and Participating Lenders and Approved Servicers. Because of the importance of being able to change procedures concerning such originating and servicing and related forms as needed, the Housing Development Fund reserves the right, on behalf of the Board of Investments, to amend the Procedural Guide, and to amend, substitute or supplement the forms referred to above, from time to time by sending written notice to Participating Lenders and Approved Servicers.