

**COMMUNITY AFFAIRS**

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

**New Jersey Housing and Mortgage Finance Agency Rules**

**Proposed Amendments: N.J.A.C. 5:80-1.3, 26.16, and 33.2**

Authorized By: New Jersey Housing and Mortgage Finance Agency, Charles A. Richman, Executive Director.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2019-050.

Submit comments by July 5, 2019, to:

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The agency proposal follows:

**Summary**

The New Jersey Housing and Mortgage Finance Agency (“NJHMFA” or “Agency”), pursuant to its statutory authority, serves as an advocate for increasing the supply of adequate, safe, and affordable

housing in the State of New Jersey (State). To fulfill its statutory mandate, the Agency acts as a mortgage lender by providing financing to housing sponsors who wish to construct, rehabilitate, or improve housing for low- and moderate-income residents of the State. The Agency also provides mortgage loans for home buyers and serves as the housing credit agency for the State.

The rules of the Agency, codified at N.J.A.C. 5:80, were adopted and have been amended from time to time pursuant to the authority of the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (Act), to establish procedures for applying for and approving the terms and conditions of mortgage loans made by the Agency, as well as the means of administering the Federal program of low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code (IRC), 26 U.S.C. § 42.

The Agency has been advised of the need to update paragraph 10 under the examples of “targeted populations” in the definition of “special needs project” at N.J.A.C. 5:80-1.3 to accord with current terminology of the Division of Child Protection and Permanency (CP&P), formerly the Division of Youth and Family Services (DYFS), within the Department of Children and Families. Accordingly, the Agency proposes to amend paragraph 10 as follows: to replace the phrase “children in foster care” with “children placed in resource family care”; to replace the reference to the “Division of Youth and Family Services (DYFS)” with the “Division of Child Protection and Permanency (CP&P)”; and to add “and children for whom CP&P has care and custody” to include those children as a targeted population that falls within the definition. The latter change would expand the definition to include special needs projects intended to provide housing for children under the care and custody of CP&P as eligible for assistance from the Agency.

The Agency additionally proposes to amend the provision of the Housing Affordability Controls rules at N.J.A.C. 5:80-26.16(b)5 to replace the phrase “foster care” with “children placed in resource family care” and to replace the phrase “foster care” with “resource family care” in the definition of

“individuals with special needs” in the definitions of the Low Income Housing Tax Credit Qualified Allocation Plan at N.J.A.C. 5:80-33.2.

This notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5 because a 60-day comment period is being provided.

### **Social Impact**

The Agency anticipates the only social impact will be the expansion of the populations eligible for residence in special needs projects financed by the Agency to include all children under the care and custody of CP&P. CP&P has advised that 49,343 children were under its care as of November 30, 2018. How many of these children are in families that already qualify as low- or moderate-income within the Agency’s definitions of those terms is not readily available data.

### **Economic Impact**

The Agency does not anticipate that the proposed amendments will have an economic impact.

### **Federal Standards Statement**

The proposed amendments do not contain any standards or requirements that exceed the standards or requirements imposed by applicable Federal law.

### **Jobs Impact**

The Agency does not anticipate that the proposed amendments will create or result in the loss of any jobs.

### **Agriculture Industry Impact**

The Agency does not anticipate that the proposed amendments will have any impact on the agriculture industry in the State of New Jersey.

### **Regulatory Flexibility Statement**

The proposed amendments will not impose any reporting, recordkeeping, or other compliance requirements on small businesses. Accordingly, the requirement of issuing a regulatory flexibility analysis does not apply to this proposed rulemaking, pursuant to N.J.S.A. 52:14B-16.

### **Housing Affordability Impact Analysis**

The Agency finds that the proposed amendments would impose an insignificant impact on the average costs of housing, both because the scope of the proposed amendments is minimal (limited to updating terminology and references to a division of State government and the inclusion of children for whom CP&P has care and custody as an eligible population for special-needs housing financing) and because there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing.

### **Smart Growth Development Impact Statement**

The Agency finds that the proposed amendments would impose an insignificant impact upon smart growth development because there is an extreme unlikelihood that the proposed amendments would evoke a change in the housing production within Planning Area 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. Accordingly, the requirement of issuing a smart growth development impact analysis does not apply to this proposed rulemaking.

## **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Agency has evaluated the proposed amendments and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 5:80-1.3 General definitions

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

...

“Special needs project” means a project serving special needs populations under the developmental disability housing programs, transitional housing revolving loan programs, shelter plus care programs, HIV/AIDS programs, and similar special needs housing programs, the primary purpose of which is to provide certain types of homes and/or community-based supportive services to individuals and families who are in need of such homes and/or services. Supportive services range across a wide continuum of care and will vary from person to person depending on their particular physical, psychosocial, and/or mental limitations, and may vary for one person over time. Examples of targeted populations that fall within a special needs project are:

- 1.–9. (No change.)

10. Orphans, children [in foster] **placed in resource family** care, [and] children who are wards of the Division of [Youth and Family Services (DYFS)] **Child Protection and Permanency (CP&P), and children for whom CP&P has care and custody.**

## SUBCHAPTER 26. HOUSING AFFORDABILITY CONTROLS

### 5:80-26.16 Household certification and referral; related project information

(a) (No change.)

(b) The administrative agent shall prepare a standard form of certification and shall sign and date one for each household when certified. An initial certification shall be valid for no more than 180 days unless a valid contract for sale or lease has been executed within that time period. In this event, certifications shall be valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing at the request of a certified household for an additional period of 180 days at the discretion of the administrative agent.

1.-4. (No change.)

5. Income does not include benefits, payments, rebates, or credits received under any of the following: Federal or State low-income energy assistance programs, food stamps, payments received for [foster] **children placed in resource family** care, relocation assistance benefits, income of live-in attendants, scholarships, student loans, personal property such as automobiles, lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements, and part-time income of persons enrolled as full-time students. Income, however, does include interest and other earnings from the investment of any of the foregoing benefits, payments, rebates, or credits.

(c) – (l) (No change.)

## SUBCHAPTER 33. LOW INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN

### 5:80-33.2 Definitions

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

...

“Individuals with special needs” means:

1.–5. (No change.)

6. Youth aging out of [foster] **resource family** care;

7.–12. (No change.)

...