

[N.J.A.C. 5:13-1.1](#)

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New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 13. LIMITED DIVIDEND AND NONPROFIT HOUSING CORPORATIONS AND ASSOCIATIONS AND URBAN RENEWAL ENTITIES > SUBCHAPTER 1. GENERAL PROVISIONS

§ 5:13-1.1 Definitions

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

"Act" means the statute under which a housing sponsor was organized. In the case of a housing sponsor created on or before April 17, 1992, "act" means the Limited-Dividend Nonprofit Housing Corporations or Associations Law, P.L. 1949, c.184, which was repealed by P.L. 1991, c.431, but the requirements of which continue to be applicable to housing projects organized and operating under it (see chapter Appendix). In the case of a housing sponsor created after April 17, 1992, "act" means the Long Term Tax Exemption Law, P.L. 1991, c.431.

"Affordable" means capable of being afforded without undue burden by a household at any given level of income. A rental unit shall be considered to be affordable if the monthly rent, together with any utility charges paid by the tenant, does not exceed 30 percent of monthly household income.

"Authority" means the Public Housing and Development Authority within the Department of Community Affairs.

"Blighted area" means any area or part of any area, together with building or buildings thereon, which is blighted, as defined by any law of the State of New Jersey.

"Cooperative" means any corporation herein defined, the projects of which have been financed under Section 213 of the National Housing Act or any other Federal law, or under any State law or any incorporated or unincorporated association of three or more persons, not for pecuniary profit, organized pursuant to any law of the State or the Federal government for the primary purpose of providing housing accommodations for its members, stockholders and others, and for the operation, management and maintenance of same.

"Equity," when used with reference to the return payable to an investor in a limited dividend housing corporation or association, means the value of the cash and/or property, including without limitation intangible property such as services, contributed by or on behalf of the investor in exchange for a proprietary interest in the corporation or association.

"Family" means the definition of family determining eligibility for occupancy in a housing project as prescribed by a Federal or State agency or any other public source, which is primarily responsible for financing, or insurance of the financing of such project.

"Federal Administrator" means the Administrator of Federal Housing Administration, his successors, officials, employees or agents.

"FHA" means the Federal Housing Administration in the United States Department of Housing and Urban Development.

"Gross shelter rent" means the gross rent or carrying charges less the cost of utilities furnished by the project utilities shall include gas and electricity if supplied by the project; cost of heating fuel, cost of water supplied and sewage charges, if any.

"HMFA" means the New Jersey Housing and Mortgage Finance Agency in, but not of the Department of Community Affairs.

"Housing association" means any limited distribution or non-profit partnership, limited partnership, limited partnership association, trust, single proprietorship or other unincorporated association organized in accordance with the provisions of the Act.

"Housing corporation" means any private, limited-dividend or nonprofit housing corporation organized in accordance with the provisions of the Act.

"Housing sponsor" means any housing corporation or association as defined in this Section.

"Income limits" means the income limits determining eligibility for occupancy in a housing project as prescribed by a Federal or State agency or any other public source which is primarily responsible for the financing or the insurance of the financing of the project.

"Lease" means any agreement made by and between a corporation or association formed under the Act and any person or persons in connection with the right of occupancy to any unit in a project of such corporation or association and shall include for the purpose hereof any occupancy agreement between a member or stockholder of a corporation formed under the Act as a cooperative, entitling such member or stockholder to the right to occupy a particular unit in a project constructed by such corporation.

"Mortgage" shall include "Deed of Trust".

"Mortgaged property" includes all property, real or personal, covered by a mortgage and all personal property belonging to the project and used in connection with the furnishing of a project constructed under Section 202 of the Housing Act of 1959.

"Principal wage earner" means only the actual family head and for the purpose hereof shall include, in addition to said actual family head, his or her husband or wife, if any; provided however, this definition shall apply only to cooperative type projects financed under an FHA insured (Section 213) mortgage.

"Project" means any work or undertaking whether new construction or rehabilitation to provide decent; safe and sanitary dwelling units for families in need of housing; including any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities or other real or personal properties which are necessary, convenient or desirable appurtenances, such as, but not limited to, streets, sewers, water, utilities, parks, site preparation, landscaping and administrative, community health, recreational, educational, welfare, commercial or other facilities, or to provide any part or combination of the foregoing.

"Range of affordability" means the household income, expressed as a percentage of the median income as adjusted by geographical region and family size in accordance with HUD Section 8 Income Guidelines or [N.J.A.C. 5:92](#), at which a given unit is affordable. The lower the percentage of median income, the greater is the range of affordability.

"Regulatory agreement" means any agreement entered into by a housing sponsor and the Authority, or with any State or Federal agency with the approval of the Authority, setting forth terms and conditions under which the development and operation of a project may function, which terms and conditions may expressly supersede provisions of this chapter that would otherwise be applicable.

"Rent" means the amount paid under a lease or occupancy agreement by a tenant for the purpose of entitling such tenant to occupy a particular unit in a project and shall include, for the purposes hereof, the carrying charges

assessed by a corporation as a cooperative against any member or stockholder thereof for occupancy of a particular unit in the project.

"Service charge" means moneys paid by a housing corporation or housing association to a municipality in which the project of such housing corporation or housing association is located, in lieu of taxes, where the housing corporation or housing association is entitled to tax exemption under Section 18 of the Act.

"State" means the State of New Jersey.

"State Administrator" means the administrator of the Public Housing and Development authority who is also the Commissioner of the Department of Community Affairs, State of New Jersey.

"State Deputy Administrator" means the Deputy Administrator of the Public Housing and Development Authority, who is also the Director of the Division of Codes and Standards, Department of Community Affairs, State of New Jersey.

"Tenant" means any person having a lease or entitled to occupancy under an occupancy agreement and shall include any member or stockholder of a corporation as a cooperative entitled to occupancy in any unit in a project built under the Act.

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- (a) These rules shall apply to and control all housing sponsors formed under the provisions of the Limited Dividend Nonprofit Housing Corporations or Associations Law, P.L. 1949, c.184, as amended (the former N.J.S.A. 55:16-1 et seq.) and remaining subject to the jurisdiction established under that act in accordance with the Long Term Tax Exemption Law, P.L. 1991, c.431; provided, however, that the provisions of N.J.A.C. 5:13-2 (Limited Dividend Housing Corporations and Associations as Cooperatives) shall apply only to housing sponsors organized as cooperatives financed under a FHA insured (Section 213) mortgage, and provided further that nothing herein shall be construed to abrogate or set aside such regulatory agreements as have been approved by the Authority prior to the date of these regulations insofar as the provisions thereof are not inconsistent with the regulations. These rules shall also apply to and control all housing sponsors formed under the provisions of the Long Term Tax Exemption Law, P.L. 1991, c.431.
- (b) For the purpose of encouraging development of housing projects under these regulations and to enable housing sponsors to obtain the necessary financing through FHA or HMFA, the State Administrator may waive any regulations herein where such waiver is in the public interest and there is a conflict between these regulations and either FHA or HMFA requirements.
- (c) The Authority may approve or adopt by reference, in whole or in part, any regulatory agreement between a housing sponsor and a State or Federal financing or insuring agency in which the terms and conditions of construction, operation and maintenance of the project are specified which substantially conform with the purposes and intent of the Act and this Chapter; provided however, that nothing herein shall be construed to prevent the Authority from inspecting and investigating any project under such regulatory agreement to assure compliance with the Act and this Chapter.
- (d) The Authority may delegate to any State or Federal financing or insuring agency such responsibilities and duties imposed upon the Authority by the Act or this Chapter as may be consistent with the intent and purpose of the regulations and consistent with public policy and the protection of rights and remedies provided for thereunder; provided however, nothing herein shall be construed to prohibit the Authority from rescinding such delegation in the event such State or Federal agency fails to perform such delegated duties and responsibilities in a responsible manner; nor to prohibit the Authority from conducting such investigations and inspections it deems necessary and appropriate to assure compliance with the requirements of the Act and this Chapter.
- (e) Approval by the Authority of any regulatory agreement as specified in subsection (c) of this Section or delegation of responsibilities and duties as provided for in subsection (d) of this Section shall be in writing and a copy of each such regulatory agreement and delegation shall be maintained on file by the State Deputy Administrator.
- (f) In all matters pertaining to implementation and enforcement of this Chapter, the Deputy Administrator shall act as the duly authorized delegate of the State Administrator. Whenever this Chapter refers to the State

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Administrator it shall be construed to include the Deputy Administrator unless specifically provided otherwise.

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- (a) The following acts of the housing sponsor, to be valid and effective shall be subject to the prior approval of the Authority in writing:
1. All bylaws of the housing sponsor and amendments to those bylaws, and to the certificate of incorporation or partnership or association agreement, which shall be filed with the Authority;
 2. All advertisement or prospectus;
 3. All rent schedules to be fixed or amended which shall be filed with the Authority;
 4. Selection or approval of any application for occupancy or entering into any leasehold agreement.
 5. Sale, transfer, encumbrance or assignment of the property of the housing sponsor or of any stock or other ownership interest in the housing sponsor, provided, however, that this paragraph shall not apply to transfers by or to individuals of stock in a nonprofit corporation which is held, or is to be held, in conjunction with a lease to a dwelling unit in a cooperative project which is occupied or is to be occupied by the holder of the stock.
- (b) If the mortgage on the project is insured by the FHA or financed by the HMFA, the housing sponsor shall comply with the requirements of such agency in connection with reserves. On termination of the jurisdiction of the FHA or HMFA, the reserves of the corporation shall be established and maintained in an account approved by the Authority.
- (c) As provided by the Act, as amended, the housing sponsor shall pay an annual service charge for municipal services in an amount not more than the tax on the property on which the project in which the undertaking of said project is commenced or 15 percent of the annual gross shelter rents obtained from the project, whichever is the greater.
- (d) The rental or use of apartments in a housing project by an employee of the housing sponsor shall be subject to the same regulations as are applicable to other tenants unless the Authority shall waive certain requirements.

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§ 5:13-1.4 Meetings of stockholders and directors

- (a) Each housing sponsor shall hold a directors' meeting at least once a year and at such times as any director may request; excepting however, a corporation as a cooperative shall hold such meetings at least quarterly.
- (b) The presence of a quorum at such meetings is required.
- (c) A copy of the minutes of each meeting of directors shall be filed with the Authority within 10 days after the meeting is held.

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§ 5:13-1.5 Tenant application, selection and priorities

- (a) It is the purpose and intent of the Act and this chapter that tenants whose housing need is greatest receive priority for occupancy in any project under the Act; provided that the applicant's household size must be suitable to the apartment to be occupied and that the applicant's household income must be sufficient to be able to afford the rent charged; and provided that any regulations of the HMFA implementing priority categories specified by the New Jersey Housing and Mortgage Finance Agency law ([N.J.S.A. 55:14K-1](#) et seq.), as amended, shall prevail in those projects financed by said agency.
- (b) Vacant apartments with rentals affordable to households of low income shall be rented to such households.
- (c) Vacant apartments with rentals affordable to households of moderate income, but not affordable to households of low income, shall be rented to households of moderate income.

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§ 5:13-1.6 Tenant priorities

- (a) Applications for eligible persons and families for occupancy shall receive priority over all others in the following order:
1. Persons and families which are or are about to be displaced from a blighted area or areas by reason of clearance, replanning, development or redevelopment; and
 2. Persons and families living in a blighted area or areas as designated by the governing body of any municipality by resolution for the purpose of clearance, replanning, development or redevelopment;
- (b) Persons who have moved to standard housing under an approved Workable Relocation Assistance Program pursuant to the Relocation Assistance Law of 1967 ([N.J.S.A. 52:31B-1](#) et seq.) and the Relocation Assistance Act ([N.J.S.A. 20:4-1](#) et seq.) and regulations promulgated thereunder ([N.J.A.C. 5:11](#)), as a permanent move outside of a priority area, shall not have priority status under this Section.

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§ 5:13-1.7 Procedures for priority applications

- (a) Where there is a project either in a phase of initial occupancy or fully occupied, and there exists a waiting list of eligible persons and families, a person or family qualifying for a priority status and consideration shall be placed at the head of the list.
- (b) The first available dwelling unit for which the person or family is otherwise eligible shall be offered for occupancy.
- (c) Where there is more than one person or family who have equal priority status, they shall be placed at the head of the waiting list in the order of their applications for tenancy.

N.J.A.C. 5:13-1.8

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- (a) There shall be posted, in a prominent place, in each office where prospective applicants come to make application for tenancy, a sign notifying the applicants of their rights with reference to nondiscrimination; priority preferences in accordance with these or HMFA regulations if applicable; eligibility to file where income is derived from welfare and public assistance funds; rights of any person to request and file application for tenancy; and the right to file complaints with the State Administrator.
- (b) The sign will be in accord with a sample copy supplied by the Authority with instructions on size and wording to be denoted thereon.
- (c) The responsibility for the public display of this sign will be with the office of the project sponsor or owner.
- (d) All informational bulletins, advertising brochures, and application forms shall, in bold type, be printed with a statement indicating to applicants or prospective applicants their rights with reference to nondiscrimination, priority preferences as provided for in these or HMFA regulations, and eligibility to file where income is derived from welfare or public assistance funds.

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- (a) Housing sponsors shall maintain an adequate supply of applications for leases in a form approved by the Authority in which specific provisions shall be made to disclose priority status of applicants as provided for in [N.J.A.C. 5:13-1.5](#), Tenant application, selection and priorities.
- (b) Any person shall be permitted to file an application.
- (c) All applicants shall be filed in duplicate.
- (d) No conditions shall be imposed on any applicant in connection with the filing or execution of application forms.
- (e) A copy of these regulations shall be maintained at any place at which a housing sponsor solicits or accepts applications, and shall be available to applicants upon request.
- (f) Each application shall be dated and numbered serially as received; excepting, however, those applications disclosing priority shall be numbered serially separately and bear the prefix "P" or, if HMFA priorities, the prefix "HMFA-P" to so indicate and shall be separately maintained and transmitted to the Authority for approval.
- (g) The housing sponsor shall investigate the statements in the application regarding employment and income of all members of the tenant family by directing a written inquiry to their employers.
- (h) For self-employed applicants, the housing sponsor shall obtain from the applicant a sworn statement of his last Federal Income Tax return.
- (i) In the case of any other applicant, the housing sponsor shall obtain a sworn statement of the Federal Income Tax return when requested by the Authority to do so.
- (j) If an applicant claims priority status the housing sponsor shall verify the statements, supporting such claim, including, if necessary, inquiry to the relocation, health or building officer of the municipality in which the applicant asserts he has been or is to be displaced or in which said applicant states he lives in a blighted area or substandard housing.
- (k) Upon request of the Authority, the housing sponsor shall transmit copies of all applications to the Authority, indicating those that it proposes to accept.
- (l) The Authority shall review each application submitted to it and shall approve or disapprove the recommendation of the housing sponsor.
- (m) In any case in which the Authority has required submission of an application, no lease shall be executed or occupancy permitted until the application of the prospective tenant has been approved in writing by the Authority.

- (n)** Each lease shall contain a clause making the application a part thereof and providing that the housing sponsor may terminate the lease upon 30-day written notice, if the application is found to contain a material misrepresentation.

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§ 5:13-1.10 List of nonapplicants

Each project management office will maintain a list of all persons who have indicated an interest in making application for tenancy, but who did not formally apply. A statement as to their reasons for nonapplication shall be listed and a report of these nonapplications shall be sent monthly to the Authority; such list shall disclose whether such nonapplicant appears to have priority status as provided for in Section 1.7 (Tenant application, selection and priorities) by affixing the letter "P" next to the name of the nonapplicant appearing to have priority status.

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- (a) Every lease made by a housing sponsor shall be on a form approved by the Authority.
- (b) No lease shall be for a term exceeding 24 months.
- (c) Every lease shall contain a clause prohibiting the subletting of the dwelling or the renting of any part of it.
- (d) A lease may require a security deposit in an amount approved by the Authority, but not more than one month's rent; provided that, said funds shall be held in trust fund against which only delinquencies under the terms of the lease after deduction of any rent due at said time and approved by the Authority.
- (e) The lease shall include any charges to be made for utilities, special services, or other facilities to be furnished to the tenant by the housing sponsor.
- (f) No one connected with the housing sponsor shall request or receive directly or indirectly any payment whatsoever in connection with the obtaining of a lease.
- (g) Violation of this regulation by any employee or other agent of the housing sponsor shall be cause for discharge.
- (h) When applying for renewal of lease, each tenant shall be required to furnish the same information and be subject to the same investigation as for an initial lease. Such renewal application may be subject to approval by the Authority.
- (i) The lease shall contain a provision providing for the eviction of any tenant based on a change in their income which disqualifies a tenant from continued occupancy under the regulations or regulatory agreements.
- (j) In any project not subject to regulation by either the United States Department of Housing and Urban Development or the New Jersey Housing and Mortgage Finance Agency, every lease made by the housing sponsor shall contain the following provision in boldface capital letters of not less than 10 point type:
THIS HOUSING PROJECT IS REGULATED BY THE DIVISION OF CODES AND STANDARDS OF THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, PO BOX 802, TRENTON, NEW JERSEY 08625.
ALL RENTS AND CHARGES ARE SUBJECT TO DEPARTMENT RULES.

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- (a) The rent schedule approved by the Authority shall be adequate to pay all necessary and reasonable expenses including, but not limited to, the cost of operation and maintenance, reserves for replacement, vacancy and other contingencies, payment in lieu of taxes, mortgage interest and amortization payments, mortgage insurance premiums and dividends on investments.
1. If a project is financed by governmental agency that regulates rent increases, rent increases shall not exceed those allowed by that governmental agency and approval of the rental schedule by that governmental agency shall be deemed to constitute approval by the Authority.
 2. If a project is not financed by a governmental agency that regulates rent increases, or is no longer financed by such a governmental agency because the mortgage to that agency has been satisfied, no rent increase shall be valid or effective unless and until approved by the Authority in accordance with [N.J.A.C. 5:13-1.3\(a\)3](#).
 - i. An application for a rent increase submitted by a housing sponsor to the Authority shall include proof of service, by personal delivery or mail, to all tenants of notice of the application for an increase and of their right to submit written comments regarding the proposed increase to the Department of Community Affairs, Division of Codes and Standards, PO Box 802, Trenton, NJ 08625-0802.
 3. Except as otherwise provided in (a)4 below, no increase shall be allowed if the resultant rents would exceed the rents in effect for the same units in the project at any time in the previous 12 months by more than the combined percentage of (a)3i and ii below:
 - i. The percentage increase in the Consumer Price Index for rent and utilities for the most recently preceding 12-month period for which information has been published by the United States Department of Labor; plus
 - ii. Either of:
 - (1) The percentage, up to a maximum of 12 percent annually, needed to fund operating deficits, debt service arrears or reserves for repair and replacement incurred at the housing project during the preceding 12 months, provided that no part of the rent increase includes an amount allocated towards providing a return on equity to the sponsor; or
 - (2) The percentage, up to a maximum of six percent annually, needed to offset an inability to provide a return on equity and to offset operating deficits, debt service arrears or reserves for repair and replacement delinquencies incurred during the preceding 12 months, if all or a portion of the requested assistance is intended to pay return on equity.
 - iii. For purposes of (a)3ii(1) and (2) above, payments made for debt service shall be deemed to be payments of return on equity to the extent that the initial principal amount of the mortgage(s) exceeds the greatest of:

- (1) The initial principal amount of the initial permanent mortgage(s), adjusted in accordance with the Consumer Price Index for rent and utilities;
 - (2) The initial principal amount of the most recent mortgage to a governmental agency that regulated rents, adjusted in accordance with the Consumer Price Index for rent and utilities; or
 - (3) The amount required to satisfy all existing mortgages and any other liens and abate all housing, construction, fire and health code violations previously cited by State or local enforcement agencies.
 4. The Authority shall only approve rent increases in amounts exceeding those determined in accordance with (a)2 above after public hearing and upon a finding that any such increase is necessary in order to assure the continued viability of the project by allowing the housing sponsor to pay all necessary and reasonable expenses, as set forth in (a) above. The Authority shall ensure that effective notice of the public hearing is given to the affected tenants and to any persons known to be representative of their interests.
 5. In lieu of approving annual increases in accordance with (a)2, 3 and 4 above, the Authority may, at any time, enter into regulatory agreements with housing sponsors that will allow the maintenance, in perpetuity, of a range of affordability in the project that, to the greatest extent feasible and consistent with project viability, most nearly equals or exceeds that existing at the time of the execution of the regulatory agreement.
- (b) The amount of payment in lieu of taxes approved by the Authority shall be the maximum amount, not exceeding the statutory maximum, that is, the greater of the tax on the property on which the project is located for the year in which the undertaking of the project is commenced or 15 percent of the annual gross shelter rents, that can be paid without endangering or impairing the viability of the project. The payment in lieu of taxes shall be in an amount less than the statutory maximum during any year in which such lesser amount is necessary for project viability.
- (c) No housing sponsor shall institute a system of submetering or other means of billing tenants for actual utility usage, including gas, electricity, water and sewerage utilities, or other energy usage, without first obtaining the approval of the Authority to do so. The housing sponsor shall give effective notice of any application for approval to institute such a system to all tenants who would be affected thereby. No approval of such a system shall be given unless the housing sponsor demonstrates that, as part of the proposal, that the proposed means of measuring usage and allocating costs would be technically valid and that rentals would be reduced in an amount commensurate with anticipated savings in utility or other energy charges to the housing sponsor.

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§ 5:13-1.13 General reports

- (a) The housing sponsor shall prepare the following reports and submit them to the Authority, or make them available for review, when requested by the Authority to do so:
1. A monthly report of occupancy;
 2. A monthly report of all persons who had indicated an interest; but did not formally apply, and a statement for reason of such nonapplication;
 3. An annual budget of operating income and expense;
 4. An annual financial report by a certified public accountant;
 5. Minutes of the meeting of the Board of Directors and of the stockholders within ten days after the meeting;
 6. Such other reports or specific answers to questions as the Authority may require from time to time.

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§ 5:13-1.14 Nondiscrimination

- (a) In the operation of housing projects, no person shall be subject to any discrimination because of race, religious principles, color, national origin or ancestry.
- (b) All facilities of a housing project shall be equally available to all tenants.
- (c) No person or family shall be denied the right to file an application for tenancy whose source of income is derived from welfare or public assistance funds.
- (d) If otherwise qualified, they shall be considered as eligible for occupancy under the same provisions that apply to all eligible applicants.

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§ 5:13-1.15 Administrative remedies and procedures

Any person or housing sponsor may at any time file with the Authority a complaint concerning any matter subject to the Act and these regulations; provided however, nothing in this Section shall be construed to limit the Authority from conducting on its own initiative and in the absence of any such complaint, investigations and inspections pertaining to adherence to the requirements of the Act and the regulations on the part of any person or housing sponsor.

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§ 5:13-1.16 Administrative orders on complaints

- (a) Upon receipt of a complaint to, or discovery of a violation of these regulations by the Authority, the Authority will notify the offending party of the complaint and the nature thereof and request that within two weeks of receipt of such notice that the offending party provide:
1. A statement that the cause of the complaint has been removed or abated; or
 2. Refutation in writing that the complaint is proper; or
 3. A statement of intent to correct the violation within a reasonable time.
- (b) Within seven days after receipt of such statements or expiration of the two week period, the Authority may issue such order as it deems appropriate and necessary.

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§ 5:13-1.17 Rights to hearing

Any person or housing sponsor aggrieved by any order issued under [N.J.A.C. 5:13-1.16](#) shall be entitled to a hearing pursuant to the Administrative Procedure Act, [N.J.S.A. 52:14B-1](#) et seq., and the Uniform Administrative Procedure Rules, [N.J.A.C. 1:1](#).

N.J.A.C. 5:13-1.18

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§ 5:13-1.18 Request for a hearing

An application for a hearing must be filed with the State Administrator within 15 business-days of the receipt by the applicant therefor of the notice or order complained of. Such application must be accompanied by a statement of issues of law and of fact which the applicant asserts are germane to the application. Copies of all such statements shall be provided to all parties in interest.

N.J.A.C. 5:13-1.19

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§ 5:13-1.19 Stay of action

A request by the applicant for a stay of notice or order complained of may be granted by the State Administrator pending final determination; provided that, no such stay shall be granted except upon such terms and conditions as will insure compliance with the provisions of the Act and this chapter.

N.J.A.C. 5:13-1.20

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§ 5:13-1.20 Declaratory rulings

- (a) Upon request of any interested party the State Administrator may, in his discretion, make a declaratory ruling with respect to the applicability to any person, property or state of facts of any statute or rule enforced or administered by the State Administrator.
- (b) A declaratory ruling shall bind the agency and all parties to the proceedings on the state of facts alleged.
- (c) Full opportunity for hearing shall be afforded to all interested parties.
- (d) Such ruling shall be deemed a decision or action subject to review before the Office of Administrative Law.
- (e) Nothing in this Section shall affect the right or practice of the State Administrator in his sole discretion to render advisory opinions.

N.J.A.C. 5:13-1.21

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§ 5:13-1.21 Informal disposition

Nothing in this Chapter shall be construed to preclude the State Administrator to dispose of any contested case by stipulation, agreed settlement, or consent order.

N.J.A.C. 5:13-1.22

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§ 5:13-1.22 through 1.28 (Reserved)

N.J.A.C. 5:13-2.1

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§ 5:13-2.1 Scope

The provisions of this subchapter shall apply to Limited Dividend Corporations formed as Cooperatives under the Act and financed under an FHA-insured (Section 213) mortgage and shall supplement the provisions of N.J.A.C. 5:13-1 as they apply to such corporations.

N.J.A.C. 5:13-2.2

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- (a) Dwelling units in any project hereunder shall be restricted for occupancy to families in which the principal wage earner's net annual income at the time of application and for the taxable year preceding the making of such application does not exceed seven times the annual rent (including the estimated value or cost to them of water, heat, electricity, gas or other utilities) of the dwelling units to be occupied by such families. The term "net annual income" as used herein shall mean the annual income of the principal wage earner of the family but shall not include any pension, compensation or disability payment received from the Federal or State government by any veteran, or any widow or orphan of any deceased serviceman or veteran by reason of, or as a result of, active military or naval service.
- (b) The corporation is entitled to charge the applicant a fee for its investigation regarding employment and income as required in subsection (a) of this Section. Said fee, however, may not exceed \$ 5.00.
- (c) With the exception of superintendents or janitors of the project, all persons occupying units of the project, including members, officers or agents of the corporation, shall be treated the same and shall be governed by the same principles in connection with the rent to be charged for the units occupied by them. No officer, employee or agent of the corporation shall receive any special privileges in connection with occupancy of any unit in the project.

N.J.A.C. 5:13-2.3

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§ 5:13-2.3 Stock transfer

- (a) Notwithstanding the provisions of any certificates of incorporation or bylaws promulgated thereunder, in order to better effectuate the purpose of providing accommodations for families in need of housing and to perpetuate the nonprofit purpose and intent of cooperative type housing, it shall be mandatory on the corporation to exercise its option to purchase, at par value less any amounts due by the stockholder to the corporation, the shares of stock and occupancy agreement offered by a stockholder desiring to leave the project. The corporation shall then resell the stock at par value plus a reasonable service charge to be approved by the Authority.
- (b) Upon written request by the corporation setting forth good and sufficient reasons, the Administrator is authorized to waive in writing to the corporation the provisions of this Section.

N.J.A.C. 5:13, Appx.

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Limited-Dividend Nonprofit Housing Corporations or Associations Law**N.J.S.A. 55:16-1 et seq.**

The Limited-Dividend Nonprofit Housing Corporations or Associations Law, P.L. 1949, c. 184 ([N.J.S.A. 55:16-1](#) et seq.), was repealed, effective April 17, 1992, by the Long Term Tax Exemption Law, P.L. 1991, c. 431 ([N.J.S.A. 40A:20-1](#) et seq.). However, as noted in the New Jersey Statutes Annotated in the notes to [N.J.S.A. 40A:20-1](#), section 20, paragraph b. of the Long Term Tax Exemption Law provided that "an urban renewal entity organized and operating under a law repealed by P.L. 1991, c. 431 shall not be affected by that repeal."

Notwithstanding the fact that limited-dividend and nonprofit housing corporations and associations organized under P.L. 1949, c. 184 continue to be subject to that law, the New Jersey Statutes Annotated no longer contains its text. In order to make the text readily accessible to the public, the Department is publishing it as an appendix to this chapter.

55:16-1 Short title

This act may be cited and referred to as the "Limited-Dividend Nonprofit Housing Corporations or Associations Law."

CASE NOTES

Pursuant to subsection b. of section 20 of L. 1991, c. 431, the Limited-Dividend Nonprofit Housing Corporations or Associations Law, former N.J.S.A. 55:16-1 et seq., continues in effect with respect to College Towers, as well as to all other housing corporations and associations formed under it prior to April 17, 1992 (modifying [2007 N.J. AGEN LEXIS 765](#)). [College Towers v. Bureau of Homeowner Protection, Dep't of Community Affairs, OAL Dkt. No. CAF 10533-06, 2007 N.J. AGEN LEXIS 847](#), Final Decision (December 31, 2007).

Extension of the duration of College Towers as a limited dividend housing corporation past the date of expiration of the tax exemption was proper; former N.J.S.A. 55:16-18 allows municipalities to grant tax exemptions to housing corporations and associations that have been established under the Limited-Dividend Nonprofit Housing Corporations or Associations Law, but the LD Law does not make any such granting of tax exemption a prerequisite to either the establishment or the continued existence of any such housing corporation or association. [College Towers v. Bureau of Homeowner Protection, Dep't of Community Affairs, OAL Dkt. No. CAF 10533-06, 2007 N.J. AGEN LEXIS 847](#), Final Decision (December 31, 2007).

College Towers continues to exist as a limited dividend housing corporation, subject to the regulatory authority of the Department of Community Affairs under the Limited-Dividend Nonprofit Housing Corporations or Associations Law, and will continue to do so unless and until such time as it may be released from that regulatory authority in accordance with former N.J.S.A. 55:16-22; its continued existence is consistent with the broad construction of the LD law mandated by former N.J.S.A. 55:16-21 and with the

strong public policy of this State favoring the preservation of existing affordable housing. [College Towers v. Bureau of Homeowner Protection, Dep't of Community Affairs, OAL Dkt. No. CAF 10533-06, 2007 N.J. AGEN LEXIS 847](#), Final Decision (December 31, 2007).

55:16-2 Legislative determination of necessity

It is hereby declared that there is a severe housing shortage in the State; that there are places in many municipalities of the State where dwellings lack proper sanitary facilities and are in need of major repairs or unfit for residential use; that these conditions are detrimental to the health, safety, morals, welfare and reasonable comfort of the people of the State; that these conditions reduce economic values and impair private investments and public revenues; that the improvement of these conditions requires the production of new dwellings at rents which the families who need housing can afford; that the creation of the agencies, associations and corporations hereinafter described, is necessary and desirable for this purpose; that the provision of housing to make possible and to assist the clearance, planning, development or redevelopment of blighted areas, as proposed in this act, is a public purpose and a public use for which public money may be spent and private property acquired; and that the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

55:16-3 Definitions

The following terms wherever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) The term "authority" means the public housing and development authority in the Department of Community Affairs.
- (2) The term "administrator" means the Commissioner of Community Affairs, who is and shall be the administrator of the public housing and development authority.
- (3) The term "council" means the Commissioner of Community Affairs.
- (4) The term "municipality" shall mean any city of any class, any town, township, village, borough, or any municipal subdivision of the State.
- (5) The term "governing body" shall mean, in the case of a municipality, the common council, or the board of commissioners, or the body managing its affairs.
- (6) The term "housing project" or "project" shall mean any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; such undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of said undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparations; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing. The term "housing project" or "project" shall be deemed to include veteran housing projects constructed under the authority of an act entitled "An act providing for housing for veterans of World War II and other people of the State and declaring an emergency in respect thereto" (P.L. 1946, c.323).
- (7) The term "housing corporation" means any private, limited-dividend or nonprofit housing corporation organized in accordance with the provisions of this act.
- (8) The term "bonds" shall mean any bonds, notes, interim certificates, debentures, or obligations issued pursuant to the provisions of this act.
- (9) The term "Federal government" means the United States of America or any department, administration, authority, instrumentality, agency, agent or officer thereof, or any corporation created thereby.
- (10) The term "State" means the State of New Jersey or any department, authority, agency or officer thereof.

- (11) The term "gross shelter rent" shall mean the gross rent or carrying charge less the cost of utilities furnished by the project. These utilities shall include gas and electricity if supplied by the project; cost of heating fuel; cost of water supplied and sewage charges, if any.
- (12) The term "housing association" means any limited-dividend or nonprofit partnership, limited partnership, limited partnership association, trust, single proprietorship or other unincorporated association organized in accordance with the provisions of this act (P.L. 1967, c.112) or the act to which this is a supplement (P.L. 1949, c.184).

55:16-4 Purposes of housing corporations or associations

Housing corporations or housing associations may be organized in the manner provided by this act to acquire, construct, alter, maintain, and operate housing projects for the purpose of providing accommodations for families in need of housing and for development or redevelopment of blighted areas, when authorized by the authority.

55:16-5 Limit on dividends; disposition of surplus on dissolution

Every stockholder of a housing corporation shall be deemed, by subscription to or the receipt of stock therein, to have agreed that he shall at no time receive from the corporation in repayment of his investment any sums in excess of the face value of the investment plus cumulative dividends at a rate not to exceed 8% per annum and any person having any proprietary interest in any housing association shall by reason of his participation therein be deemed to have agreed that he shall at no time receive as a return on his investment any sums in excess of the face value of the investment plus a cumulative return thereon in the aggregate at a rate not to exceed 8% per annum computed from the initial date in which moneys were paid over or property delivered in consideration for the proprietary interest of the investor. Upon the dissolution of any such housing corporation or housing association, any surplus in excess of such amounts shall be paid to the State of New Jersey; provided, however, that the authority may enter into agreements with any municipality where tax exemption is provided pursuant to section 18 of this act with respect to any project or projects of such housing corporation or association for the distribution to and apportionment of said surplus between the State and the municipality.

55:16-5.1 "Surplus" defined

As used in section 5 of the act to which this act is a supplement, and as used in any statute amendatory of or supplementary to said act, the term "surplus" shall not be deemed to include any increase in assets of any limited-dividend housing corporation or housing association organized in accordance with the provisions of said act or any supplement thereto, by reason of reduction of mortgage, by amortization or similar payments or realized from the sale or disposition of any assets of a housing corporation or housing association to the extent such surplus can be attributed to any increase in market value of any real property or tangible personalty accruing during the period such assets were owned and held by any such housing corporation or housing association.

55:16-6 Formation of housing corporation; certificate; contents

Any three or more persons of the State may form a housing corporation for the aforesaid purpose by making, signing, acknowledging and filing a certificate as required for other corporations formed under Title 14, Corporations, General, of the Revised Statutes, which certificate shall contain the following matters:

- (1) The name of the proposed housing corporation.
- (2) The purposes for which it is formed, which shall be to acquire, construct, maintain and operate housing projects as authorized under this act.
- (3) Its duration, which shall not be more than 50 years.
- (4) The amount, value, and number of shares, all having a par value, of its capital stock with limitations thereon, including the limitation that dividends on the stock shall not exceed 8% per annum except to the extent that such dividends shall not have been paid in a previous year, or

years, of operation, in which case stockholders may be paid such deficiency without interest out of any surplus earned in any succeeding years.

- (5) The names and addresses of subscribers to stock in the corporation and the number of shares to be issued to each.
- (6) A provision that no real property of the corporation shall be sold, transferred, encumbered or assigned except under and pursuant to the provisions of this act and the regulations of the authority issued hereunder.
- (7) Any other provisions, not inconsistent with this act or other law for the regulation of the business and the conduct of the affairs of the housing corporation.
- (8) A declaration that the housing corporation has been organized to serve a public purpose and use; that its operations shall be directed to providing for and making possible the clearance, planning, development or redevelopment of blighted areas; and that it will at all times be subject to the supervision and control of the authority.

55:16-7 Approval of certificate or amendment by Authority

No such certificate or amendment thereof shall be filed until the same, with all its conditions, limitations and provisions, shall have first been approved by the Authority, as evidenced by a certificate of the Authority annexed thereto.

55:16-8 Right, powers and privileges of housing corporations

Every housing corporation organized under this act, subject to the conditions and restrictions herein, and the regulations of the authority approved by the council, shall have the following rights, powers and privileges:

- (1) To have succession by its corporate name for the period limited in its certificate of incorporation or any amendment thereto.
- (2) To sue and be sued in its corporate name.
- (3) To have and use a common seal and to alter same at pleasure.
- (4) To have a capital stock of such amount and number of shares as may be provided in the certificate of incorporation or any amendment thereto and to increase or decrease its capital stock.
- (5) To acquire, own, use, convey, sell, contract, encumber, lease and otherwise dispose of and deal in real or personal property or any interest therein.
- (6) To borrow money at such rate of interest, not to exceed the lawful rate set pursuant to chapter 55 of the laws of 1968, to mortgage or pledge its property, both real and personal, and to secure the payment of its obligations.
- (7) To pay dividends on its capital stock at a rate not to exceed 8 per annum and to pay or to provide for the payment of its debts and other obligations.
- (8) To elect officers, appoint agents, engage employees, define their duties and fix their compensation.
- (9) To enter into contracts for the purchase, acquisition, construction, reconstruction, maintenance, operation and management of housing projects and for the purchase of equipment, materials and supplies, necessary or incidental to these purposes.
- (10) To lease, sell or exchange all of its corporate assets with the consent of 2/3 of all the outstanding capital stock of the corporation at any annual meeting or at any special meeting called for that purpose.

- (11) To accept loans or grants from the Federal Government, the State or any municipal subdivision thereof in aid of housing projects owned or to be acquired or constructed by the corporation.
- (12) To make by-laws not inconsistent with the laws of the State for the administration of the business and interests of such corporation and to amend the same.
- (13) To cease doing business in this State and to surrender its charter.
- (14) To obtain, or aid in obtaining, from the Federal Government, any insurance or guarantee or commitment therefore, as to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan or other extension of credit, or any instrument evidencing or securing the same, obtained or to be obtained or entered into by it; and to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee.
- (15) To have and exercise all the powers necessary and convenient to carry into effect the purpose for which the corporation is formed.

The authority may make the exercise of any of the rights, powers and privileges of housing corporations set forth in this section subject to its prior approval.

55:16-8.1 Discrimination

For all of the purposes of the act to which this act is a supplement, no person shall, because of race, religious principles, color, national origin or ancestry, be subject to any discrimination.

55:16-9 Stocks and obligations to be issued only for money or property

No housing corporation shall issue stock, bonds or other obligations except for money or property actually received by it for its use and lawful purposes. No stocks, bonds or other obligations shall be issued except upon a valuation approved by the Authority.

55:16-9.1 Formation of housing association; certificate; contents

Any one or more persons of the State may form a housing association for the aforesaid purpose by making, signing, acknowledging and filing a certificate of organization, which certificate shall be filed with the office of the clerk of the county in which the principal place of business of said housing corporation shall be situated. The said certificate shall, in addition to the requirements of any other law to which it is subject, contain the following matters:

- (1) The name of the proposed housing association.
- (2) The purposes for which it is formed, which shall be to acquire, construct, maintain and operate housing projects as authorized under this act and the act to which this is a supplement.
- (3) Its duration.
- (4) The value and nature of each proprietary interest and an agreement that the owner thereof and his or their heirs, successors or assignees shall be bound to limit any return thereto to an amount not to exceed 8% per annum of the amount invested therein, except to the extent that such return shall not have been paid in a previous year, or years, of operation, in which case stockholders may be paid such deficiency without interest out of any surplus earned in any succeeding years.
- (5) The names and addresses of any persons holding any proprietary interest and the value thereof.
- (6) A provision that no real property of the housing association shall be sold, transferred, encumbered or assigned except under and pursuant to the provisions of this act and the act to which this is a supplement and the regulations of the authority issued hereunder.

- (7) Any other provisions, not inconsistent with this act or the act to which this is a supplement or other law for the regulation of the business and the conduct of the affairs of the housing association.
- (8) A declaration that the housing association has been organized to serve a public purpose and use; that its operations shall be directed to providing for and making possible the clearance, planning, development or redevelopment of blighted areas; and that it will at all times be subject to the supervision and control of the authority until and unless released therefrom in accordance with procedures set forth in section 1 of chapter 69 of the laws of 1950 (C.55:16-22).

The said certificate shall be subject to approval by the authority as provided by section 7 of the act of which this act is amendatory and supplementary (C.55:16-7).

55:16-9.2 Rights, powers and privileges of housing association

Subject to the requirements, limitations and restrictions set forth in this act and the act to which this is a supplement, any housing association may be organized under the provisions governing partnerships, limited partnerships, or limited partnership associations, trust, single proprietorships, or as unincorporated business associations and, except to the extent inconsistent herewith, may exercise any of the powers, and enjoy any of the rights and privileges, provided therefore by statute or law and shall, in addition, have the following express powers:

- (1) To enter into contracts for the purchase, acquisition, construction, reconstruction, maintenance, operation and management of housing projects and for the purchase of equipment, materials and supplies necessary or incidental to these purposes.
- (2) To lease, sell or exchange all of its capital assets with the consent of at least 2/3 in value of the holders of the proprietary interest in the said housing association at any meeting called to vote thereon.
- (3) To accept loans or grants from the Federal Government, the State or any municipal subdivision thereof in aid of housing projects owned or to be acquired or constructed by the association.
- (4) To obtain, or aid in obtaining, from the Federal Government, any insurance or guarantee or commitment therefore, as to, or for, the payment or repayment of interest or principal, or both, or any part thereof, of any loan or other extension of credit, or any instrument evidencing or securing the same, obtained or to be obtained or entered into by it; and to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee.

The authority may make the exercise of any of the rights, powers and privileges of housing associations set forth in this section or referred to herein, subject to its prior approval.

55:16-9.3 Interest or obligations to be issued only for money or property

No interest in any housing association or obligation thereof shall issue or be created except for money or property actually received by it for its use and lawful purposes. No proprietary interest therein or other obligation shall be issued or created for property except upon a valuation approved by the Authority.

55:16-10 Public utilities, activity competitive with prohibited

No housing corporation or housing association shall engage in any activity competitive with any public utility as defined in section 48:2-13 of the Revised Statutes.

55:16-11 Authority, powers of

The Authority, subject to the approval of the council, shall have the power to make, amend, modify and repeal rules and regulations to effectuate the purposes of this act and to supervise the operation of any housing corporations or housing associations thereunder. The authority shall also have the power to supervise the planning, development and management of any housing project undertaken by such corporation or housing association under this act or any act supplemental thereto. The functions, powers and duties conferred upon the authority by this act shall, subject to rules and regulations referred to herein, be exercised by the administrator.

55:16-12 Application to authority for approval of project

Every corporation or housing association organized under this act, before purchasing, acquiring or undertaking any project herein authorized, shall make written application to the authority for approval thereof. Said application may be made at the same time as the application for the approval of its certificate of incorporation or, if unincorporated, certificate of organization, and shall be in such form, and certify as to such facts and data, as to justify approval; and shall contain such other information as the authority may require, including but not limited to:

- (1) A statement by the governing body of the municipality in which the project be located certifying that the project will meet, or meets, an existing housing need, that it conforms to the requirements of all applicable municipal ordinances, and that the governing body approves of the development or acquisition of the property.
- (2) A description of the project, including such architectural and site plans as may be required.
- (3) A statement of the cost or purchase price of the project, in such detail as may be required.
- (4) The source, method and amount of money to be raised through the investment of private capital, setting forth the amount of stock or other securities to be issued therefore.
- (5) A fiscal plan for the project giving the schedule of rents, the estimated expenditures for operation and maintenance, payments to the municipality, either for taxes or service charges, and for interest, amortization and reserves.
- (6) A statement showing that adequate light, air and open spaces will be provided and that the project will conform to reasonable standards of safety and sanitation.

55:16-13 Approval by authority of incorporation certificate of organization or housing projects

The authority shall have full and complete power to hear and consider, or refuse to consider, all applications for incorporation as a housing corporation or for approval of a certificate of organization as a housing association under this act and all applications for housing projects to be purchased, acquired or undertaken by housing corporations. During or after such hearing, the authority shall have power to approve or disapprove any such incorporation or certificate of organization or housing project.

55:16-14 Approval of purchase, acquisition or construction of housing project

The authority shall approve the purchase, acquisition or construction of a housing project by a housing corporation or housing association only under the following conditions:

- (1) That the project is within an area where, under the conditions existing at the time, dwellings conforming to reasonable standards of adequacy and renting at or below the average rent to be charged in the project, are not being provided in sufficient quantity through the ordinary operation of private enterprise.
- (2) That there has been presented to the authority, in such form and with such proof as it may require, a financial plan covering the cost of lands and improvements and operation of the project, such as shall reasonably assure the successful completion and operation of the project in accordance with the purposes of this act.

55:16-15 Conditional approval; designation of trustee; authority of trustee

The approval of every such application may also be conditional on the acceptance by the housing corporation of a designee of the Authority as a member of the board of directors of the corporation. A further condition may be that the corporation shall agree to the designation of a trustee (which shall be a banking corporation authorized to perform trust functions) by the Authority with respect to any housing project approved by it. Such trustee may be authorized to receive moneys of the corporation obtained as proceeds of its mortgage bonds, notes, stock or other securities, or as rent or other income of any project, and make payment therefrom for acquisition of land, construction or improvements, for charges of operation and maintenance and for other items related to these costs, upon presentation of draft, check or order signed by a proper officer of the corporation and countersigned by the said Authority or a person designated by it for such purpose. Said trustee may be authorized by the Authority to act with reference to the construction of a project or to the operation of a project or to any combination or part thereof.

55:16-16 Supervision of housing corporations and associations

Notwithstanding the provisions of any other law to the contrary, the authority shall have the power to supervise housing corporations or housing associations and their real and personal property in the following respects:

- (1) The authority may prescribe uniform systems of accounts and records for housing corporations or housing associations and may require them to make reports and give answers to specific questions on such forms, and at such times, as maybe necessary for the purposes of this act.
- (2) Through its agents or employees, the authority may enter upon and inspect the lands, buildings and equipment of a housing corporation or housing association, including all parts thereof, and may examine all books and records with reference to capital structure, income, expenditures and other payments of a housing corporation or housing association.
- (3) The authority may supervise the operation and maintenance of any project of a housing corporation or housing association and may order such repairs as may be necessary to protect the public interest or the health, welfare or safety of the project occupants.
- (4) The authority may fix, and alter from time to time, a schedule of rents and charges for any project of a housing corporation or housing association.
- (5) The authority may determine standards for, and may control, tenant selection by a housing corporation or housing association.

- (6) The authority may require any housing corporation or housing association to pay to the authority such fees as it may prescribe, subject to any regulations of the council, in connection with the examination, inspection, supervision, auditing, or other regulations of the housing corporation or housing association.
- (7) The authority may order any housing corporation or housing association to do, or to refrain from doing, such things as may be necessary to comply with the provisions of law, the rules and regulations of the authority, and the terms of any contract or agreement to which the corporation or association may be a party.
- (8) The authority may regulate the retirement of any capital investment on the redemption of stock where any such retirement or redemption, when added to the dividend or other distribution, shall exceed in any one fiscal year 8% of the original face amount of any investment in any housing corporation or housing association.

55:16-17 Action by authority; receiver; reorganization; foreclosure actions; judicial sales

The authority may institute any proceeding or action against any housing corporation or housing association in any court of competent jurisdiction in order to enforce the provisions of this act or the regulations of the authority thereunder approved by the council, or to foreclose its mortgage, or to protect the public interest, the tenants, the stockholders of the housing corporation or its creditors or persons holding any proprietary interest in any housing association. In connection with any such suit, it may apply for the appointment of a receiver to manage, operate, and take over the affairs of said housing corporation or housing association and the administrator is hereby authorized to accept appointment as receiver of any such housing corporation or housing association when so appointed by a court of competent jurisdiction.

Reorganization of any housing corporation or housing association shall be subject to the supervision and control of the authority and no such reorganization shall be had without the consent of the authority. Upon all such reorganizations, the amount of capitalization, including therein all stocks, income debentures and bonds or, in the case of a housing association, the proprietary interests therein, and other evidence of indebtedness shall be such as is authorized by the administrator which, in making his determination, shall not exceed the fair value of the property involved.

In any foreclosure action, other than a foreclosure action instituted by the authority, the authority and the municipality in which any tax exemption or abatement is provided any housing corporation or association, in addition to other necessary parties, shall be made parties defendant; and the authority and the municipality shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against the authority or the municipality. Subject to the terms of any applicable contract, agreement, guarantee or insurance entered into or obtained pursuant to subsection (14) of section 8 hereof, judgment of foreclosure shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lien-holder or holders cannot be adequately secured or safeguarded except by the sale of the property; and, in any such proceeding, the court shall be authorized to make an order increasing the rentals to be charged for the housing accommodations in the project involved in such foreclosure, or appoint the administrator or any officer of the municipality in which any tax exemption or abatement with respect to the project is provided, as a receiver of the property, or grant such other and further relief as may be reasonable and proper; and, in the event of a foreclosure sale or other judicial sale, the property shall be sold only to a housing corporation or housing association which will maintain, operate and manage the project subject to the provisions of this act and the regulations of the authority, approved by the council, issued hereunder, unless the court shall find that the interest and principal on the obligations secured by the lien the subject of foreclosure cannot be earned under the limitations imposed by the provisions of this act and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this act, or subject to such limitations as the court may deem advisable to protect the public interest.

In the event of a judgment against any housing corporation or housing association in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property of such housing corporation except upon 60 days' written notice to the authority. Upon receipt of such notice, the administrator shall take such steps as, in his judgment, may be necessary to protect the right of all parties.

55:16-18 Exemption of project from taxation; annual service charge

When the governing body of any municipality in which a project of a housing corporation or housing association is or will be located, by resolution finds that the project is, or will be, an improvement made for the purposes of the clearance, re-planning, development or redevelopment of any blighted area (as defined in any law of this State) within such municipality, or for any of such purposes, then such project and improvement shall be exempt from all property taxation; provided, that in lieu of taxes, the housing corporation or housing association owning said project shall make to the municipality payment of an annual service charge for municipal services supplied to said project, in such amount, not exceeding the tax on the property on which the project is located for the year in which the undertaking of the project is commenced or 15% of the annual gross shelter rents obtained from the project, whichever is the greater, as may be agreed to by the municipality and the housing corporation or housing association and approved by the authority. Any exemption from taxation made pursuant to the provisions of this section shall not extend for a period of more than 50 years and shall only be effective during the period of usefulness of the project, as determined by the authority, and shall continue in force only while the project is owned by a housing corporation or housing association formed under this act and regulated by the authority or owned and operated by the authority.

CASE NOTES

Extension of the duration of College Towers as a limited dividend housing corporation past the date of expiration of the tax exemption was proper; former N.J.S.A. 55:16-18 allows municipalities to grant tax exemptions to housing corporations and associations that have been established under the Limited-Dividend Nonprofit Housing Corporations or Associations Law, but the LD Law does not make any such granting of tax exemption a prerequisite to either the establishment or the continued existence of any such housing corporation or association. [College Towers v. Bureau of Homeowner Protection, Dep't of Community Affairs, OAL Dkt. No. CAF 10533-06, 2007 N.J. AGEN LEXIS 847](#), Final Decision (December 31, 2007).

55:16-18.1 Subsidy to corporation or association; purpose; ordinances

The governing body of any municipality in which a project of a limited-dividend housing corporation or housing association is located may, by ordinance, provide for the payment of money as a subsidy to such limited dividend housing corporation or housing association for the purpose of acquiring land for such project. Every such ordinance shall specify the amount or amounts of such payments, the time or times they are payable, and the terms and conditions of such payments.

55:16-19 Laws applicable to housing corporations; exemption from franchise and other state taxes

The provisions of law applicable to stock corporations organized under the laws of this State shall apply to housing corporations incorporated under this act, except where such provisions are in conflict herewith; provided, however, that the Authority may make the exercise of any rights powers and privileges thereunder subject to its prior approval.

Housing corporations organized under the provisions of this act shall be exempt from payment of any franchise or other State tax.

55:16-20 Partial invalidity

If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part hereof directly involved in the controversy in which said judgment shall have been rendered.

55:16-21 Broad interpretation of powers

The powers enumerated in this act shall be interpreted broadly to effectuate the purposes hereof and shall not be construed as a limitation of powers.

CASE NOTES

College Towers continues to exist as a limited dividend housing corporation, subject to the regulatory authority of the Department of Community Affairs under the Limited-Dividend Nonprofit Housing Corporations or Associations Law, and will continue to do so unless and until such time as it may be released from that regulatory authority in accordance with former N.J.S.A. 55:16-22; its continued existence is consistent with the broad construction of the LD law mandated by former N.J.S.A. 55:16-21 and with the strong public policy of this State favoring the preservation of existing affordable housing. [College Towers v. Bureau of Homeowner Protection, Dep't of Community Affairs, OAL Dkt. No. CAF 10533-06, 2007 N.J. AGEN LEXIS 847](#), Final Decision (December 31, 2007).

55:16-22 Release of corporation or association from restrictions and limitations

Notwithstanding any provision of the act to which this act (P.L. 1950, c.69) is supplemental to the contrary, any limited-dividend housing corporation or association organized in accordance with the provisions of said act may, at any time after the expiration of 15 years from the date of first tenant occupancy of any duly approved housing project of such corporation or association, apply to the authority for permission to be released from the restrictions and limitations imposed upon it under said act. The authority may approve the application provided it is consented to, by resolution, by the governing body of each municipality in which tax exemption has been granted to any housing project of such corporation, after a finding, by resolution of such governing body, that there no longer exists any housing shortage in the municipality by reason of which the project was originally approved. A duly certified copy of each of such resolutions shall be submitted to the authority. Upon the approval of such application by the authority, any tax exemption granted to such housing corporation or association, or any project or improvement thereof, shall terminate, and such corporation or association and the projects thereof shall not thereafter be subject to the restrictions and limitations imposed thereon by the act to which this act is a supplement. In such event, any surplus of such corporation or association then remaining, in excess of the amount required for the repayment of the face amount of investments of stockholders in the capital stock of such corporation or of persons holding any proprietary interest in any housing association, plus any cumulative dividends or return on investment at a rate not to exceed 8% per annum, shall be paid to the State of New Jersey; provided, however, that the authority may enter into agreements with any municipality where tax exemption has been provided, pursuant to section 18 of the act to which this act is a supplement, with respect to any project or projects of such housing corporation or association, for the distribution to, and apportionment of, said surplus between the State and the municipality.