

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, 8.4, 13.3, 13.4, 13.6, 13.9, 14.4, 14.5, 14.6, 14.8, 21.1, and 21.2

Proposed New Rule: N.J.A.C. 5:80-21.2

Proposed Repeals: N.J.A.C. 5:80-13.2, 13.8, 14.1, 14.2, 14.3, and 14.7

Authorized By: New Jersey Housing and Mortgage Finance Agency, Melanie R. Walter,
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 2024-135.

Submit written comments by January 17, 2025, to:

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The agency proposal follows:

Summary

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. 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/owners 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, among other things, establish procedures for and terms and conditions of mortgage loans made and purchased by the Agency. In order to address outdated language and update the Agency’s single-family home loan programs to align with current industry practice, the Agency is proposing amendments, a new rule, and repeals that impact those programs. Following is a summary of the proposed changes to the rules:

Subchapter 1. General Provisions

1. At N.J.A.C. 5:80-1.3, General definitions, the Agency proposes to delete the definitions of “Home Improvement Loan Program Commitment,” “Note Purchase Agreement,” and “Notice of Acceptance,” as this rulemaking would delete the only uses of the terms. Additionally, the Agency proposed to amend the existing definition of “Mortgage Purchase Agreement” to clarify that the term applies to all single-family mortgage loans, not just home improvement loans. The Agency also proposes to amend the definitions of “Mortgage Servicing Agreement” to change seller to servicer or sub-servicer. The order of the definitions of “single family mortgage loan” and “single family home improvement loan” are revised to make them alphabetical.

Subchapter 13. Making or Purchasing Eligible Loans for Single Family Mortgages

2. The Agency proposes to repeal N.J.A.C. 5:80-13.2, Commitment applications, as the Agency no longer makes such applications available to mortgage sellers, but rather utilizes an online reservation system.

3. The Agency proposes to amend the heading at N.J.A.C. 5:80-13.3, Allocation of commitments, to Adoption of Policy and Procedures for Participating Lenders Guide (Seller's Guide) and Mortgage Purchase Agreement, to accurately describe the content of the section as it is proposed to be amended. Further, the Agency proposes to amend N.J.A.C. 5:80-13.3 to incorporate the adoption of a Seller's Guide and Mortgage Purchase Agreement to describe and regulate the participation of lenders who propose to sell mortgage loans to the Agency, and to delete two criteria that are no longer deemed necessary to be included in those documents.

4. The Agency proposes to amend the heading at N.J.A.C. 5:80-13.4, Execution of mortgage purchase agreement, mortgage servicing agreement; Term Sheet; Notice of Acceptance, to Execution of Mortgage Purchase Agreement, term sheet, or fact sheet, to accurately describe the content of the section as it is proposed to be amended. Further, the Agency proposes to amend N.J.A.C. 5:80-13.4 to delete references to a Mortgage Servicing Agreement, to provide a website address for access to the Seller's Guide and Mortgage Purchase Agreement, and to delete references to a term and documents that are no longer applicable to the Agency's single-family loan programs.

5. The Agency proposes to amend N.J.A.C. 5:80-13.6, Limitations on loans, to improve syntax and to include the purchase prices of homes to be financed as being among the elements upon which the Agency may set limits in the making or acquisition of single-family mortgage loans.

6. The Agency proposes to repeal N.J.A.C. 5:80-13.8, Refinancing of pre-existing single family mortgage loans, as the provisions of this section are no longer applicable to the Agency's single-family loan programs.

Subchapter 14. Making or Purchasing Eligible Loans for Single-Family Home Improvement

7. The Agency proposes to amend the heading at Subchapter 14, Making or Purchasing Eligible Loans for Single Family Home Improvement, to Making or Purchasing Eligible Loans for Single-Family Homes, as the subchapter applies to the making or purchasing of loans for single-family homes, not only single-family home improvements.

8. The Agency proposes to repeal N.J.A.C. 5:80-14.1, 14.2, and 14.3 as those sections pertain only to loans for single-family home improvements, to which Subchapter 14 is not limited and the conditions of which, other than as set forth at existing N.J.A.C. 5:80-14.4, are subsumed within the remaining provisions at Subchapter 14.

9. The Agency proposes to recodify N.J.A.C. 5:80-14.4, Unsecured single family home improvement loans, as N.J.A.C. 5:80-14.1, and to amend the text to include a provision that single-family home improvement loans not secured by a mortgage on the property may not be offered by the Agency. Amendments are also proposed to correct the capitalization of "term sheet" and to denote that fact sheets, as well as term sheets, may specify those single-family home improvement loans eligible for acquisition by the Agency.

10. The Agency proposes to recodify N.J.A.C. 5:80-14.6, Regulation of points charged by mortgage sellers, as N.J.A.C. 5:80-14.3 and to delete the term "improvement" from the phrase "single-family home improvement loans" as the section encompasses single-family home loans.

11. The Agency proposes to repeal N.J.A.C. 5:80-14.7, Refinancing of pre-existing debt, as the proscription provided in this section of the Agency's acquisition of single-family home-

improvement loans for the purpose of refinancing pre-existing debt is not applicable to the Agency's single-family loan programs.

Subchapter 21. Transfer of Servicing of Single-Family Mortgage Loans

12. The Agency proposes to delete N.J.A.C. 5:80-21.1(c). This subsection currently excludes loan originators who are not servicers and newly originated loans that are being transferred from the originating lender to an approved servicer from the scope of Subchapter 21. The deletion of subsection (c) would eliminate that exclusion.

13. The Agency proposes new N.J.A.C. 5:80-21.2, Servicer and sub-servicer compliance requirements, to mandate that all servicers and sub-servicers comply with the terms of any contract entered into with the Agency and with the Seller's Guide and Mortgage Program Servicing Guide.

14. The Agency proposes to recodify existing N.J.A.C. 5:80-21.2, Agency review and approval of transfer, as N.J.A.C. 5:80-21.3. Further, the Agency proposes to delete the phrase "of the Agency" following "Executive Director" at existing N.J.A.C. 5:80-21.2(a) as being superfluous since the term "Executive Director" is defined in the definitions section of the rules at N.J.A.C. 5:80-1.3. Also, the Agency proposes to amend existing N.J.A.C. 5:80-21.2(b) to provide that, in order for a transfer of servicing to be approved by the Agency, the successor servicer must meet all requirements of the current Seller's Guide and Mortgage Servicing Agreement, in addition to those requirements set forth at existing N.J.A.C. 5:80-21.2(b)1 through 10, with amendments proposed at paragraph (b)1 to eliminate the requirement that the prospective servicer be a currently approved Agency seller or servicer and to improve syntax, and at paragraph (b)8 to improve syntax.

15. Throughout the chapter, technical amendments are proposed to update “single family” to “single-family.”

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

Social Impact

The proposed amendments, new rule, and repeals are principally intended to clarify, simplify, and update the processes by which lenders submit mortgage loans for purchase by the Agency and to promote mortgage servicing in a manner more consistent with industry practice. The proposed amendment at N.J.A.C. 5:80-13.6 would permit the Agency to consider the purchase price of a home subject to a mortgage submitted for purchase by the Agency. It is, therefore, expected that any resulting social impact of the proposed rulemaking would be a greater availability of financing for affordable single-family housing in the State.

Economic Impact

The proposed amendments, new rule, and repeals are intended to clarify, simplify, and update the processes by which lenders submit mortgage loans for purchase by the Agency and to promote mortgage servicing in a manner more consistent with industry practice. The rulemaking is, therefore, not expected to result in any negative economic impact.

Federal Standards Statement

The Agency finds that the proposed amendments, new rule, and repeals do not exceed any known standards or requirements imposed by Federal law. Accordingly, a Federal standards analysis is not required.

Jobs Impact

The proposed amendments, new rule, and repeals are not expected to create or result in the loss of any jobs.

Agriculture Industry Impact

The proposed amendments, new rule, and repeals are not expected to have any impact on the agriculture industry in the State.

Regulatory Flexibility Statement

The proposed amendments, new rule, and repeals are principally intended to clarify, simplify, and update the processes by which lenders submit mortgage loans for purchase by the Agency and to promote mortgage servicing in a manner more consistent with industry practice. The proposed rulemaking would eliminate certain obsolete terms and provide greater direction for servicers and sub-servicers of mortgage loans purchased by the Agency. Additionally, the proposed revisions would better enable stakeholders to locate all essential requirements of those documents online. The Agency, therefore, finds that the proposed revisions will not impose any additional reporting, recordkeeping, or other compliance obligations on current or prospective lenders, servicers, or borrowers.

Housing Affordability Impact Analysis

The Agency finds that the proposed amendments, new rule, and repeals would impose no more than an insignificant impact on the average cost of housing or the affordability of housing, as the proposed amendments, new rule, and repeals are principally intended to clarify, simplify,

and update the processes by which lenders submit mortgage loans for purchase by the Agency and to promote mortgage servicing in a manner more consistent with industry practice.

Smart Growth Development Impact Analysis

The Agency finds that the proposed amendments, new rule, and repeals would impose no more than an insignificant impact on smart growth development because there is an extreme unlikelihood that the amendments, new rule, and repeals, which are principally intended to clarify, simplify, and update the processes by which lenders submit mortgage loans for purchase by the Agency and to promote mortgage servicing in a manner more consistent with industry practice, would evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Agency finds that the proposed amendments, new rule, and repeals will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 5:80-13.2, 13.8, 14.1, 14.2, 14.3, and 14.7.

Full text of the proposed new rule and amendments 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.

...

["Home Improvement Loan Program Commitment" means the aggregate unpaid principal amount of home improvement loans which a mortgage seller offers to deliver and sell to the Agency and the Agency agrees to purchase, such sale and purchase to be made under a Note Purchase Agreement.]

...

"Mortgage Purchase Agreement" means an agreement entered into between a mortgage seller and the Agency [under] **pursuant to** which the mortgage seller agrees to deliver and sell to the Agency and the Agency agrees to purchase **single-family** mortgage loans.

"Mortgage Servicing Agreement" means an agreement entered into between a mortgage [seller] **servicer or sub-servicer** or other person acceptable to the Agency and the Agency [under] **pursuant to** which the mortgage [seller] **servicer or sub-servicer** or other person agrees to service mortgage loans purchased by the Agency from such mortgage seller [under] **pursuant to** a Mortgage Purchase Agreement.

["Note Purchase Agreement" means an agreement entered into between a mortgage seller and the Agency under which the mortgage seller agrees to deliver and sell to the Agency and the Agency agrees to purchase single family home improvement loans.

"Notice of Acceptance" means the Notice of Acceptance by the Agency to the mortgage seller of an application.]

...

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

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

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

...

SUBCHAPTER 8. OCCUPANCY REQUIREMENTS REGARDING INCOME

5:80-8.4 Special Multiple Family Units within housing projects located in municipalities affected by casino gaming

(a)-(c) (No change.)

(d) A [single family] **single-family** is deemed to exist among two or more individuals if those individuals have a joint personal economic relationship, other than their mutual interest in

renting the same dwelling unit. Joint ownership of personal assets, commingling of personal accounts, economic dependency among the individuals, and/or the joint filing of income tax returns shall be evidence of a joint personal economic relationship.

(e)-(f) (No change.)

SUBCHAPTER 13. MAKING OR PURCHASING ELIGIBLE LOANS FOR [SINGLE FAMILY] SINGLE-FAMILY MORTGAGES

5:80-13.2 (Reserved)

5:80-13.3 [Allocation of commitments] **Adoption of Policy and Procedures for Participating Lenders Guide and Mortgage Purchase Agreement**

[In allocating funds available to meet the commitments requested by mortgage seller, the] **The Agency may adopt an appropriate Policy and Procedures for Participating Lenders Guide (Seller's Guide) and Mortgage Purchase Agreement describing and regulating the participation of lenders proposing to sell mortgage loans to the Agency, which shall consider, among other things, the amounts of the commitments requested by the various mortgage sellers, [the adequacy of supply of single family mortgage loans in the areas in which the mortgage sellers propose to originate mortgage loans,] the financial strength and stability of the mortgage seller, the mortgage loan originating and servicing activity, [reported in the commitment application] and the ability of the mortgage sellers to originate and/or service [single family] **single-family** mortgage loans [under] **pursuant to** the terms and conditions of the [mortgage purchase**

agreement and the mortgage servicing agreement] **Seller's Guide and Mortgage Purchase Agreement.**

5:80-13.4 Execution of mortgage purchase agreement, [mortgage servicing agreement; Term Sheet; Notice of Acceptance] **term sheet, or fact sheet**

The Agency and each mortgage seller will enter [in] **into** a Mortgage Purchase Agreement [and Mortgage Servicing Agreement] stating the conditions [under] **pursuant to** which sellers will originate and the Agency will purchase mortgage loans financed [under] **pursuant to** this [Section] section. **The Agency's current Seller's Guide and Mortgage Purchase Agreement are available on the Agency's website at https://www.nj.gov/dca/hmfa/lenders/docs/len_sellerguide_07012024.pdf and https://www.nj.gov/dca/hmfa/lenders/docs/len_mortgage_purchase_agreement.pdf, respectively.** The Agency will provide a [Term Sheet] **term sheet or fact sheet** for each mortgage program, which shall set forth the terms of all loans[, mortgage delivery period] and other requirements. All loans [originated under a commitment allocation] must conform to the requirements of the [Term Sheet] **term sheet or fact sheet**, which shall be incorporated into the Mortgage Purchase Agreement by reference. [The amount of the allocation provided to each mortgage seller for each program shall be set forth in a Notice of Acceptance.]

5:80-13.5 Eligible neighborhoods

The Agency may designate special areas of the State in which the purchase of mortgage loans by the Agency will best effectuate the general purposes of the Act and the objectives of expansion of supply of funds in the State available for [single family] **single-family** mortgage loans,

provision of additional housing needs to remedy the shortage of adequate housing in the State, and elimination of substandard dwellings. If the Agency makes such a designation, special allocations and conditions may be imposed or waived for [single family] **single-family** mortgage loans in these areas.

5:80-13.6 Limitations on loans

The Agency may set limitations on the principal amounts of [a] mortgage loans, **the purchase prices of homes to be financed**, or upon the incomes of homebuyers in any area **in order** to effectuate the purposes of the Act.

5:80-[13.9]13.8 Purchase of Agency bonds

No mortgage seller (including any related person thereof, as defined [in] **at** Section 103(b)(6)(C) of the Internal Revenue Code) shall, pursuant to any arrangement, formal or informal, purchase the bonds of the Agency in an amount related to the amount of the mortgage loans to be purchased from such mortgage seller (or related person, as aforesaid) by the Agency.

SUBCHAPTER 14. MAKING OR PURCHASING ELIGIBLE LOANS FOR [SINGLE FAMILY] **SINGLE-FAMILY** HOMES [IMPROVEMENT]

5:80-[14.4]14.1 Unsecured [single family] **single-family** home improvement loans

[Single family] **Single-family** home improvement loans, **if offered by the Agency and** which are not secured by a mortgage on the property being improved or rehabilitated, shall be limited to loans specified in the [Term Sheet] **term sheet or fact sheet** for each [single family Home Improvement Loan Program] **single-family home improvement loan program** fully

insured [under] **pursuant to** the Federal Housing Administration Title I Property Improvement Loan Program.

5:80-[14.5]**14.2** Eligibility requirements

The Agency may designate income and other limitations with respect to persons eligible to receive [single family] **single-family** home improvement loans and with respect to the use of proceeds of [single family] **single-family** home improvement loans by such persons, which limitations may vary according to geographical area, in order that the purchase of [single family] **single-family** home improvement loans by the Agency shall best effectuate the general purpose of the Act and the objectives of expansion of the supply of funds in the State available for [single family] **single-family** home improvement loans, provision of additional housing needed to remedy the shortage of adequate housing in the State and elimination of substandard and energy inefficient dwellings. The Agency may set limitations on the principal amounts of [single family] **single-family** home improvement loans to effectuate the aforesaid purposes of the Act.

5:80-[14.6]**14.3** Regulation of points charged by mortgage sellers

The Agency may regulate, limit, or prohibit the charge or collection of any commitment fee, premium, bonus, points, or other fees in connection with the origination of [single family] **single-family** home [improvement] loans by **a mortgage seller on loans** to be purchased by the Agency.

5:80-[14.8]**14.4** Purchase of Agency bonds

No mortgage seller (including any related person thereof, as defined [in] **at** Section 103(b)(6)(C) of the Internal Revenue Code) shall, pursuant to any arrangement, formal or informal,

purchase the bonds of the Agency in an amount related to the amount of the [single family] **single-family** home improvement loans to be purchased from such mortgage seller (or related person, as aforesaid) by the Agency.

SUBCHAPTER 21. TRANSFER OF SERVICING OF [SINGLE FAMILY] **SINGLE-FAMILY** MORTGAGE LOANS

5:80-21.1 General applicability

(a) The rules set forth [within] at N.J.A.C. 5:80-21.1 [through], **21.2, 21.3, and 21.4** shall apply to all servicers of Agency [single family] **single-family** mortgage program loans upon:

1. - 2. (No change.)
3. Sale or transfer of the portfolio of Agency loans to another [service] **servicer**; or
4. (No change.)

(b) (No change.)

[(c) The rules within this subchapter shall not apply to loan originators who are not servicers or to newly originated loans that are being transferred from the originating lender to an approved servicer.]

5:80-21.2 Servicer and sub-servicer compliance requirements

Servicers and sub-servicers proposing to service mortgage loans made or acquired by the Agency shall comply with the terms of any contract entered into with the Agency and with the Agency's Policy and Procedures for Participating Lenders (Seller's Guide) and Mortgage Program Servicing Guide. The Seller's Guide and the Mortgage Program Servicing Guide are both available on the Agency's website at

https://www.nj.gov/dca/hmfa/lenders/docs/len_sellerguide_07012024.pdf and
https://www.nj.gov/dca/hmfa/lenders/docs/len_servicingguide.pdf, respectively.

5:80-[21.2]21.3 Agency review and approval of transfer

(a) No servicer may enter into any transfer as specified at [in] N.J.A.C. 5:80-21.1 without obtaining prior written consent of the Agency. Approval of all transfers shall be made by the Executive Director [of the Agency].

(b) In order for a transfer to be approved, the successor servicer must meet all of the **requirements set forth at the Agency's current Seller's Guide and, if applicable, form of Mortgage Servicing Agreement, including the** following [requirements]:

1. [Is a currently approved Agency seller/servicer and has] **Have** a demonstrable ability to service an Agency portfolio[,] of the size to be transferred;

2. – 7. (No change.)

8. [Evidence] **Provide evidence** of fidelity insurance, errors and omission insurance, and other insurance required by the Agency;

9. – 10. (No change.)

(c) (No change.)