CHAPTER 80
NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

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

Source and Effective Date
Effective: September 14, 2017.
See: 49 N.J.R. 3423(c).

Chapter Expiration Date
Chapter 80, New Jersey Housing and Mortgage Finance Agency, expires on September 14, 2024.

Chapter Historical Note
Chapter 80, Housing Finance Agency, was adopted as R.1977 d.71, effective March 4, 1977. See: 9 N.J.R. 62(c), 9 N.J.R. 164(c).


Subchapter 33, Low Income Housing Tax Credit Qualified Allocation Plan, was repealed and replaced by Subchapter 33, Low Income Housing Tax Credit Qualified Allocation Plan, which was adopted as new rules by R.1996 d.255, effective June 3, 1996. See: 28 N.J.R. 1443(b), 28 N.J.R. 2843(a).


Subchapter 26, Housing Affordability Controls, was repealed and a new Subchapter 26, Housing Affordability Controls, was adopted as new rules by R.2001 d.160, effective October 1, 2001. See: 35 N.J.R. 230(a), 33 N.J.R. 3432(b).

Chapter 80, New Jersey Housing and Mortgage Finance Agency, was readopted as R.2003 d.219, effective June 10, 2005. See: 37 N.J.R. 970(a), 37 N.J.R. 2476(a).

Chapter 80, New Jersey Housing and Mortgage Finance Agency, was readopted as R.2010 d.292, effective November 16, 2010. See: 42 N.J.R. 1282(a), 42 N.J.R. 3055(a).

Subchapter 23, Housing Incentive Note Purchase Program, was repealed by R.2012 d.105, effective May 21, 2012. See: 44 N.J.R. 139(a), 44 N.J.R. 161(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 80, New Jersey Housing and Mortgage Finance Agency, was scheduled to expire on November 16, 2017. See: 43 N.J.R. 1203(a).

Chapter 80, New Jersey Housing and Mortgage Finance Agency, was readopted with technical changes, effective September 14, 2017. See: Source and Effective Date. See, also, section annotations.

Subchapter 6, Sale of Projects Owned by Nonprofit Corporations to Limited Partnerships, was renamed Use of Funds from Sale of Projects Owned by Nonprofit Corporations to Limited Partnerships; Subchapter 22, Affirmative Fair Housing Marketing, was renamed Affirmative Fair Housing Marketing Plan Requirements; and Subchapter 10, Loans to Lenders for Single Family Mortgage Loans, and Subchapter 24, Lease-Purchase Program, were repealed by R.2018 d.132, effective July 2, 2018. See: 49 N.J.R. 1555(a), 50 N.J.R. 1479(a).

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SUBCHAPTER 9. RENTS

5:80-9.1 Purpose

It is the express purpose of the following regulations to promote the statutory functions and obligations of the Agency by ensuring that the rents and/or carrying charges applied in housing projects are sufficient to pay normal operating, maintenance and utility costs; provide an adequate rate of return to individuals or corporations that provide capital to assist in the development of housing projects; provide debt service payments adequate to protect the financial interest of the Agency and its bondholders; provide reserves for repair and replacement; and ensure adequate, safe and sanitary housing for the low and moderate income families that the Agency was created to serve.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
Specification added.

Case Notes

Rent increase at housing project was adequate and not excessive. In the Matter of the Application for a Rental Increase at Jasontown II Apartments, 96 N.J.A.R.2d (HFA) 1.

5:80-9.2 Applicability

The rules within this subchapter shall apply to all housing projects. In the event the housing project is assisted, directly or indirectly, by HUD or is financed by a loan from the Agency that is insured or guaranteed by the United States, or any agency thereof, the Agency may utilize the rent regulations, requirements, or criteria for such project prescribed, utilized, or required by HUD or such guarantor or insurer. In the event there are any inconsistencies between these rules and the regulations, requirements, or criteria of HUD or other United States agency insuring or guaranteeing the Agency loan, the latter shall prevail. If a housing project contains units that are rent-restricted pursuant to 26 U.S.C. § 42(g), rents with respect to such units are subject to, and may not under any circumstance exceed, any limitations imposed pursuant to the Internal Revenue Code, as well as any limitations imposed pursuant to this subchapter.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
Old section 9.2, “Rent determination” was recodified to 9.3.
Amended by R.2019 d.026, effective March 18, 2019.
See: 50 N.J.R. 1985(a), 51 N.J.R. 405(b).
Rewrote the section.

Case Notes

Although a multi-family market rental project sought a rent increase of 158%, the ALJ concluded that the project was entitled to a 3% rent increase due to the increase in the consumer price index (CPI) and a 22.4% rent increase to offset operating losses for a total rental increase of 25.4%. The Agency’s 2% rent increase was lower than the amount needed to offset the CPI increase, which was 2.6%, and the project was entitled to a return on equity for 2017. Jasontown II Assoc. L.P v. N.J. Hous. & Mortg. Fin Agency, OAI Docket No. HFA 1081-18, N.J. AGEN LEXIS 507, Initial Decision (August 23, 2018).

5:80-9.3 Rent determination

(a) At least once each year, each housing sponsor shall make a determination of the rents and/or carrying charges to be applied in the housing project. Hereinafter, the term “rent” shall be construed to include carrying charges and the term “housing sponsor” shall be construed to include a properly authorized representative of the housing sponsor. An annual rent determination shall be made regardless of whether or not a rent increase is being requested.

(b) The rent determination shall be in the form of a resolution or letter from the sponsor.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
Text on supporting documentation recodified to 9.4; text on rent determination recodified from 9.2; determination to occur once, at any time, during each year.

Case Notes

Proposal for rent increase procedures cited (11 N.J.R. 304); rent varying power under former N.J.A.C. 5:18-1.2; rent control ordinance cannot restrict rent increase approved by State agency for a State financed, supervised and regulated housing project. Overlook Terrace Management Corp. v. Rent Control Board of West New York, 71 N.J. 451, 366 A.2d 321 (1976).

5:80-9.4 Rent increase application

(a) Housing sponsors desiring to implement a rent increase of an amount greater than three percent of the current rent, or the increase which would be derived by multiplying the current rent by the increase, if any, in the overall Consumer Price Index for New York-Northeastern New Jersey as published by the United States Department of Labor, Bureau of Labor Statistics as of September 30 of the year preceding the year in which the increase is sought to be implemented, whichever is less, or for a project receiving subsidy, assistance, insurance or guarantee by HUD shall submit a rent increase application to the Agency’s Director of Property Management. The application shall consist of the rent determination and the following supporting documents:
1. Name of sponsor, location of housing project, number of apartments of each type;

2. Date of initial occupancy;

3. For Section 236 developments, a status report on the housing project’s implementation of its current energy conservation plan;

4. A narrative statement of the reasons for the rent increase;

5. Most recent certified audit report prepared in accordance with Agency regulations;

6. Summary of income and expenses for the preceding 12 month period prepared on an accrual basis for non-federally subsidized housing projects. For all projects with Federal subsidy, monthly operating reports will be required for the preceding three months;

7. Annual budget on which the requested rent increase is based; and


(b) In housing projects where there is a valid Housing Assistance Payments contract, in accordance with which rents are or may be adjusted, the sponsor is not required to submit a rent increase application. Rents will be adjusted in accordance with the contract without resort to the rules within this subchapter, except that the sponsor shall still be obligated to make the rent determination as required by N.J.A.C. 5:80-9.3.

(c) In housing projects where there is no Housing Assistance Payments contract or other subsidy, assistance, insurance or guarantee from HUD, the sponsor is not required to submit a rent increase application for an annual rent increase for an amount not greater than the lesser of:

1. Three percent of the current rent; or

2. The increase which would be derived by multiplying the current rent by the increase, if any, in the overall Consumer Price Index for New York-Northeastern New Jersey as published by the United States Department of Labor, Bureau of Labor Statistics as of September 30 of the year preceding the year in which the increase is sought to be implemented.

(d) For projects under (c) above, the sponsor may implement an annual rent increase for an amount not greater than the amount calculated pursuant to this subsection by submitting a letter so notifying the Agency’s Director of Property Management at least 30 days prior to implementation of such increase.

See: 34 N.J.R. 3153(a), 35 N.J.R. 1409(c).
In (a), rewrote the introductory paragraph and inserted “N.J.A.C.” following “in accordance with” in 8; added (c) and (d).

5:80-9.5 Additional rent increases in given fiscal year

The submission of a rent increase application for any given fiscal year shall not preclude any sponsor from making additional or revised rent increase applications in the same fiscal year, provided that they are submitted in accordance with all the procedures set forth in this subchapter. Rent increases implemented pursuant to N.J.A.C. 5:80-9.4(c), however, shall not be implemented more than once in any given fiscal year.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
See: 34 N.J.R. 3153(a), 35 N.J.R. 1409(c).
Added the last sentence.

5:80-9.6 Notice to tenants and cooperators

(a) Prior to or simultaneous with the submission of the rent increase application pursuant to N.J.A.C. 5:80-9.4(a) to the Agency, each housing sponsor shall provide, in writing, to each tenant and cooperator and conspicuously post at the housing project, a notice, in a form prescribed by the Agency, setting forth the following:

1. The rent determination;

2. A statement that the rent determination is subject to the review and approval of the Agency and, if applicable, subject to the review and approval of HUD;

3. Reasons for the increase;

4. A statement that tenants and cooperators will have 30 days to inspect the rent increase application submitted by the housing sponsor pursuant to N.J.A.C. 5:80-9.4(a); and

5. A statement that written comments on the proposed rents may be submitted to the housing sponsor, managing agent or the Agency’s Director of Property Management, at their current address within 30 days of the rent increase application being available for review.

(b) Upon expiration of the comment period, the housing sponsor shall submit a certification to the Agency, in the form prescribed by the Agency, that it has complied with the requirements of N.J.A.C. 5:80-9.6(a).

(c) If the housing sponsor fails to substantially comply with the notice requirement of (a) above, the Agency shall withhold processing of the rent increase application until there is substantial compliance with such requirements.

(d) Upon implementation of an annual rent increase pursuant to N.J.A.C. 5:80-9.4(c), the housing sponsor shall notify each tenant and/or cooperator of the amount and the effective date of the increase in accordance with the provisions of the tenant’s or cooperator’s lease.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
Text on notice to tenants and cooperators recodified to 9.6; text on supporting documentation recodified from 9.3 and renamed rent increase application; text from old 9.8, on automatic annual adjustments added at (b).
See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
Text on rent schedules approved by the Department of Housing and Urban Development repealed; text on notice to tenants and cooperators recodified from 9.4; submission attachments specified; (c) added; Amended by R.2003 d.128, effective March 17, 2003.
See: 34 N.J.R. 3153(a), 35 N.J.R. 1409(c).
In (a), inserted “pursuant to N.J.A.C. 5:80-9.4(a)” following “rent increase application” in the introductory paragraph and inserted “Property” preceding “Management” in 5; added (d).

5:80-9.7  Agency review

(a) The Agency will review the rent increase application submitted pursuant to N.J.A.C. 5:80-9.4(a) to verify the need for the rent increase requested. If the application contains errors or omissions of a material nature, the Director of Property Management shall require the housing sponsor to submit the corrected or omitted material and provide tenants and cooperators with notice that they will have 15 days to inspect and comment upon the corrected or omitted material.

(b) Within 10 business days after receipt of the complete rent increase application and any comments thereto, the Agency shall:

1. For housing projects receiving subsidies under HUD, submit the rent increase application to HUD for approval pursuant to N.J.A.C. 5:80-9.8;

2. For all other projects submitting a rent increase application pursuant to N.J.A.C. 5:80-9.4(a), process the application in accordance with N.J.A.C. 5:80-9.9 and, if applicable, 5:80-9.11. The 10-business-day requirement in (b) above shall not apply to rent increases subject to a hearing as provided by N.J.A.C. 5:80-9.11.

(c) Prior to submission of any rent increase application to HUD, the Agency may attach its comments and recommend a rent increase different from that requested by the housing sponsor. If the Agency reduces or eliminates that portion of the requested increase that would provide return on owner’s equity, written notice of such reduction or elimination will be provided to the housing sponsor by the Executive Director of the Agency.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).
Application procedure specified further, tenants given 15 days to inspect documents.
See: 34 N.J.R. 3153(a), 35 N.J.R. 1409(c).
In (a), inserted “pursuant to N.J.A.C. 5:80-9.4(a)” following “rent increase application” and inserted “Property” preceding “Management” in the introductory paragraph; in (b2), inserted “submitting a rent increase application pursuant to N.J.A.C. 5:80-9.4(a)” following “For all other projects”. Amended by R.2019 d.26, effective March 18, 2019.
See: 50 N.J.R. 1985(a), 51 N.J.R. 409(b).
In (b2), substituted “5:80-9.11” for “5:80-9.10” twice, and substituted “10-business-day” for “10 business day”.

5:80-9.8  Rent increases approvable by the Department of Housing and Urban Development

(a) In all housing projects receiving subsidies under the Section 236 Interest Reduction Payments Program or Section 8 Housing Assistance Payments Program, rent increase applications shall be submitted to and are subject to approval by HUD, unless the rent increase is automatically authorized pursuant to N.J.A.C. 5:80-9.4(b).

(b) Upon verification of the completeness, accuracy and validity of the rent increase application pursuant to its review under N.J.A.C. 5:80-9.7, the Agency will forward the rent increase application to HUD for final action. The Agency will notify the housing sponsor of HUD’s final decision.

See: 22 N.J.R. 2389(b), 23 N.J.R. 2055(a).

5:80-9.9  Increases approved by Agency

(a) If the rents are not subject to review and approval by HUD nor subject to automatic annual adjustments pursuant to a valid Housing Assistance Payments contract, then the Executive Director may make or approve a rent increase without a hearing as long as the resulting rents do not exceed the rents in effect for the same units in the housing project at any time in the previous 12 months by more than the combined percentage of paragraphs 1 and 2 below:

1. 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
2. Either of:
   i. 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 toward providing a return on equity to the sponsor; or
   ii. 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 increase is intended to pay return on equity.

(b) For housing projects receiving subsidies under the New Jersey Urban Multi-Family Production Program (JUMPP), the Agency shall consider the amount by which the JUMPP subsidy decreases annually, as well as any operating deficits existing after distribution of the annual JUMPP subsidy, in determining the amount of rent increase needed pursuant to (a) above.

(c) The Agency shall provide the housing sponsor with a copy of its calculations done pursuant to (a) above.
5:80-9.11 Increase subject to hearing

(a) In projects not subject to HUD approval nor subject to automatic annual adjustments, if the Executive Director of the Agency approves a rent increase which exceeds the amounts specified in N.J.A.C. 5:80-9.9(a), in order to cover any purpose including but not limited to operating deficits, debt service arrears, reserves for repair and replacement delinquencies incurred during the preceding 12 months, inability to pay return on equity, increases in permitted return on equity and accelerated amortization of any supplemental financing, then any person, association or corporation aggrieved by such determination may file for a hearing by submitting a written request to the Executive Director. Housing sponsors shall give written notice to all tenants and cooperators affected by such rent increase approved by the Executive Director and of their opportunity to request a hearing. Persons, associations or corporations aggrieved by the increase must file their request for a hearing within 21 days of said notice.

(b) Upon receipt of a request for a hearing or upon his or her own initiative, the Executive Director shall request that the Office of Administrative Law conduct same. All hearings shall be conducted according to the procedures established by the Office of Administrative Law pursuant to N.J.S.A. 52:14B-10. When the date of the hearing has been established, housing sponsors shall provide notices, in a manner approved by the Agency, of the date, time, place and nature of said hearing to all tenants, cooperators and other persons requesting notice of said hearing. The scope of the hearing shall be limited to consideration of the amount in excess of the increases approved by the Executive Director under N.J.A.C. 5:80-9.9(a). Upon review of the record submitted by the administrative law judge, the Agency members shall adopt, reject or modify the recommended decision and issue a final written order.
(c) The request for a hearing, or the hearing itself, shall in no way affect or delay the authority of the Executive Director to approve increases up to the amounts specified pursuant to N.J.A.C. 5:80-9.9(a). If the Executive Director approves an amount equal to or less than the amount calculated in accordance with N.J.A.C. 5:80-9.9(a), then no hearing is required.

See: 22 N.J.R. 2389(b); 23 N.J.R. 2055(a).

Hearing circumstances specified further; tenant notice requirement added.
See: 50 N.J.R. 1985(a); 51 N.J.R. 409(b).

Case Notes

Defense of rent increase unconscionability not available to tenant in summary dispossess action; objection of unconscionable rent increase proper at hearing under former N.J.A.C. 5:80-1.10; agency approval of rent increase can only be reviewed in Appellate Division. Marine View Housing Co. No. 1 v. Benoit, 188 N.J.Super. 539, 457 A.2d 1241 (Law Div.1982).

5:80-9.12 Notice of final approval

(a) Upon final action by HUD or the Agency, the Agency will provide written notice to the housing sponsor of the finally approved rent increase. Such notice will set forth in writing the reasons for the Agency’s decision with regard to the finally approved rent increase.

(b) The housing sponsor shall provide written notice of the finally determined rent increase and the reasons for the Agency’s decision with regard thereto and, if applicable, the Agency’s calculations pursuant to N.J.A.C. 5:80-9.9(a) to all tenants and cooperators, as well as all other interested parties. Written notice shall be provided to each tenant by mail or by hand delivery to the tenant/cooperator’s apartment or by personal service and shall be posted in conspicuous places throughout the housing project. Other interested parties may receive a copy of the final notice if they provide a written request for same to the sponsor.

See: 22 N.J.R. 2389(b); 23 N.J.R. 2055(a).

Text on notice of hearing repealed; text on notice of final approval recodified from 9.12 and reference to 9.9 added.
See: 50 N.J.R. 1985(a); 51 N.J.R. 409(b).

5:80-9.13 Effective date of increase

The new rents shall be effective on the first day of the month following one calendar month’s written notice to the tenants, cooperators and other interested parties which submitted a written request for the notice.

See: 21 N.J.R. 2160(a); 21 N.J.R. 3748(a).

Changed text from “following the mailing of . . . ” to “following written notice.”

See: 22 N.J.R. 2389(b); 23 N.J.R. 2055(a).

Text on notice of final approval recodified to 9.11; text on effective date of increase recodified from 9.13.
See: 50 N.J.R. 1985(a); 51 N.J.R. 409(b).

5:80-9.14 Resident monthly fee increases for low- and/or moderate income-restricted units in assisted living residences (ALRs)

(a) For the purposes of this section, the term “monthly fee” includes charges for rent, meals, and basic services. The Agency shall regulate the monthly fees for all low and moderate income-restricted ALR units. Monthly fees for income-restricted ALR units may not exceed 80 percent of the HUD median income level applicable to that ALR as set forth in the Financing, Deed Restriction, and Regulatory Agreement executed by the housing sponsor and the Agency (applicable HUD median income level). The foregoing shall not apply to units occupied by persons who have insurance and/or another contracted third-party payor.

(b) Sponsors of ALRs may implement increases of monthly fees for the income-restricted ALR units with Agency approval by submitting a written request to the Director of Property Management of the Agency, accompanied by the current tenant income certifications for the income-restricted ALR units, the most recent HUD area median income figures, and the maximum rents corresponding to the area median income figures. The Director of Property Management will review and verify the information contained therein and, if accurate, approve the requested monthly fee increase, up to a maximum of 10 percent for low-income units and 20 percent for moderate-income units, but not to exceed 80 percent of the applicable HUD median income level. Monthly fee increases for non-income restricted ALR units do not require Agency approval.

(c) When calculating the maximum monthly fees for low and/or moderate income-restricted ALR units, housing sponsors shall use the HUD median income level for the area where the ALR is located, adjusted for family size following the formula below:

1. For efficiency or studio units, monthly fees shall be based on a one person household; and
2. For a one bedroom unit, monthly fees shall be based on a one and one-half person household.

(d) Upon approval from the Agency, the housing sponsor shall notify each tenant and/or designated family member, guardian or community agency of the monthly fee increase by mail or hand delivery to each tenant’s unit or by personal service. The notice shall include a calculation of how the increase was determined based upon the applicable HUD median income level.
(e) The new monthly fees shall be effective on the first day of the month following one calendar month’s notice to the tenants and/or their designated representatives.

Amended by R.2018 d.132, effective July 2, 2018.
See: 49 N.J.R. 1595(a), 50 N.J.R. 1479(b).
Section was “Resident monthly fee increases for low and/or moderate income-restricted units in assisted living residences (ALRs)”. Rewrote (a) and (b).
Amended by R.2019 d.026, effective March 18, 2019.
See: 50 N.J.R. 1985(a), 51 N.J.R. 409(b).
Rewrote (a) and (b).

5:80-9.15 Rent increases for low and/or moderate income projects without Federal project-based rent subsidies

(a) Sponsors of housing projects without project-based Federal rent subsidies may elect to implement rent increases in accordance with the rules in this section rather than those in N.J.A.C. 5:80-9.1 through 9.12. The rules within this section may be used only after the owner demonstrates through an Agency approved annual tenant income certification process that at least 10 percent of the units are rented to low income families and the balance rented to moderate income families. For the purposes of this section, a low income family is a family that earns 50 percent or less of the HUD area median income and a moderate income family is one that earns greater than 50 percent but no more than 80 percent of the HUD area median income. The foregoing provision defining a low income family and a moderate income family in effect as of March 20, 2006 shall be retroactive and considered effective as of June 20, 1994.

1. Sponsors shall submit a written request to the Agency, accompanied by the current tenant income certifications, the most recent HUD median income figures and the maximum rents corresponding to the median income figures. The Agency will review and verify the information contained therein and, if accurate, approve the rent increase, up to a maximum of 10 percent for low income units and 20 percent for moderate income units, not to exceed the maximum rents corresponding to the median income figures. The Agency will provide written notice of the approval to the Sponsor.

2. Upon approval from the Agency, the Sponsor shall notify tenants in writing. Notice shall be by mail or hand delivery to each tenant’s unit or by personal service. The notice shall include the calculation of how the increase was determined pursuant to HUD’s increase in median income.

3. The new rents shall be effective on the first day of the month following one calendar month’s written notice to the tenants.

(b) Sponsors of projects without project-based Federal rent subsidies, which do not meet the low and moderate income unit distribution set forth in (a) above, may elect to convert their project to that unit distribution. Following a successful conversion to a project with at least 10 percent of the units reserved for or rented by low income families and the remainder reserved for or rented by moderate income families, rent increases may be implemented via (a)1 through 3 above.

1. Sponsors who elect to convert shall get credit toward the 10 percent or greater low income and 90 percent or less moderate income family unit distribution for any existing tenants meeting such standard following an Agency approved tenant income certification process. As vacancies occur, the units shall first be rented to low income families to fulfill the 10 percent or greater low income requirement and then the remainder to moderate income families to fulfill the moderate income requirement.

2. In the event that any of the moderate income units have current rents at less than the maximum moderate income rent provided under (a)1 above, rent increases shall be phased in over the first five years following election to convert until the maximum rent is reached for a moderate income family. The maximum allowable annual rent increase is determined by taking the dollar difference between the current rent of a unit and the maximum moderate income rent provided herein at the time of election to convert, and dividing the difference by five. The resulting number will be the maximum allowable annual increase for moderate income units under this section. However, in no event may the rent increase in a given year be greater than 20 percent of the then current rent for a unit. Thereafter, rents for moderate income units shall be implemented pursuant to (a)1 through 3 above.

(c) Low income units may revert to moderate income units 15 years after the conversion. At such time, rent increases shall be phased in over the next five years until the maximum rent is reached for a moderate income family. The maximum allowable annual rent increase is determined by taking the dollar difference between the current rent of a unit and the maximum moderate income rent provided herein at the time of the reversion of the low income units, and dividing the difference by five. The resulting number will be the maximum allowable annual increase for moderate income units under this section. However, in no event may the rent increase in a given year be greater than 10 percent of the then current rent for a unit. Thereafter, rents shall be implemented pursuant to (a)1 through (3) above.

(d) If a project currently has more than 10 percent low income residents, such units must be maintained as low income units until vacancies occur.

(e) When calculating the maximum rent for low and moderate income units, sponsors shall use the following formula for determining family size:

1. For efficiency units, family size shall be based on a one person household.
2. For all other units, family size shall be based on one and one-half persons per number of bedrooms in the unit.

(f) Sponsors who wish to implement rent increases in excess of those permitted in (a) and (b) above may request such increase in writing. The excess rent increase amount shall be subject to the procedures at N.J.A.C. 5:80-9.4 through 9.12. The entire rent increase amount shall be considered for determining whether or not a hearing is required pursuant to N.J.A.C. 5:80-9.10.

(g) No rent increase may be approved which would increase rents in excess of those permitted by other applicable rent restrictions, for example, low income tax credit restrictions, tax exempt bond financing restrictions.

See: 26 N.J.R. 1188(a), 26 N.J.R. 2570(a).
See: 37 N.J.R. 4363(a), 38 N.J.R. 1430(b).
Rewrote the section.
See: 50 N.J.R. 1985(a), 51 N.J.R. 409(b).

SUBCHAPTERS 10 THROUGH 12. (RESERVED)

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

5:80-13.1 Authority

This subchapter is promulgated pursuant to the authority of N.J.S.A. 55:14K-12c, whereby the Agency may make, pur-

chase or participate in the purchase of eligible loans in order to encourage the development, operation, construction, improvement and rehabilitation of affordable housing.

5:80-13.2 Commitment applications

(a) The Agency shall make available to all mortgage sellers who request it, a form of commitment application for each proposed program to purchase single family mortgage loans at least 14 days in advance of the date all such applications must be submitted to the Agency. The commitment application shall be in the form prescribed by the Agency and shall contain, among other things:

1. Provision for the mortgage seller to state the maximum principal amount of single family mortgage loans which the mortgage seller offers to the Agency;

2. The date by which the commitment application must be submitted to the Agency in order to be considered for an allocation of funds and the date by which commitments will be accepted by the Agency;

3. Form of the proposed mortgage purchase agreement and mortgage servicing agreement;

4. Provision for the mortgage seller to furnish information regarding its mortgage loan origination and servicing activities during a time period to be prescribed by the Agency;

5. Provision for liquidated damages to be paid or other penalties to be incurred by the mortgage seller in the event that it fails to execute or perform under the mortgage purchase agreement for the commitment accepted by the Agency; and