

**RULES
OF
TENNESSEE HOUSING DEVELOPING AGENCY
GENERAL PROVISIONS AND HOMEOWNERSHIP LOAN PROGRAM**

**CHAPTER 0770—1—1
GENERAL PROVISIONS**

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0770—1—1—.01 DEFINITIONS.

- (1) Terms defined in the Act have the same meaning when used in these Rules and Regulations as are ascribed to them in the Act.
- (2) *Act* means the Tennessee Housing Development Agency Act, as amended, being Chapter 241, Public Acts of 1973 and being Chapter 23 of Title 13 of the *T.C.A.*
- (3) *Applicant* means a natural person or a corporation, or limited dividend entity or any combination thereof, making application to receive Agency monies, assistance or services under the Act.
- (4) *Application* means a request for Agency assistance under the Act made on forms provided by the Agency and containing such information as the Executive Director requires.
- (5) *Agency* means the Tennessee Housing Development Agency created by the Act.
- (6) *Agency Board* means the members of the Board of Directors in whom in the powers of the Agency are vested pursuant to the Act.
- (7) *Agency mortgage loan* means an insured loan as defined in §3 (7) of the Act, (*T.C.A. §13—23—103(7)*) or a commitment to make an insured mortgage loan authorized by resolution of the Agency and made or to be made to person or family of low and moderate income to provide long-term financing for a housing unit or to provide long-term financing to a housing sponsor for a housing development; or an insured construction loan as defined in §3 (6) of the Act, (*T.C.A. §13—23—103(6)*) as a temporary loan for the purpose of providing financing to an individual for construction or rehabilitation of a housing unit or to a housing sponsor for a housing development; and made or to be made in whole or in part from the proceeds of sale of the Agency's notes or bonds and any other available funds, including a mortgage loan involving participation by the Agency with a qualified lender(s).
- (8) *Housing unit* means residential housing intended for occupancy by a single household and which will be owned by the occupant thereof.
- (9) *Residential housing* means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations for persons and families of lower and moderate income including the acquisition, construction or rehabilitation of land, buildings and improvements thereto and such other nonhousing facilities as may be incidental or appurtenant thereto (“ancillary facilities”).

(Rule 0770-1-1-.01, continued)

- (10) *Executive Director*. The person duly appointed to serve as Executive Director of the Tennessee Housing Development Agency pursuant to *T.C.A. §13—23—112*. The Executive Director may delegate any of the functions and powers conferred upon him by the Board or pursuant to these regulations to such officers, agents and employees as he may designate or appoint. The Executive Director shall administer all programs of the Agency and exercise all powers prescribed by Resolution of the Agency Board.
- (11) *Household*. One or more individuals regardless of blood or legal ties who live as, and are considered, a family unit.
- (12) *Gross Annual Household Income* means the total gross annual income of all members of the household, excluding the following:
 - (a) All earnings of any dependent under 18 years of age, or any dependent household member who is physically or mentally handicapped (as defined by THDA).
 - (b) Up to \$3,000 of the earnings of any dependent household member who is not a title-holding mortgagor and who is 62 years of age or older.
- (13) *Gross Annual Income* means the total income, before taxes and other deductions, received during the twelve months immediately preceding the month in which the application is taken. This includes all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and all other income derived from any sources. It does not include educational benefits received from the Veteran's Administration or child support payments.
- (14) *Dependent*. That person or those persons who are eligible to be claimed as an exemption or exemptions on the applicant's federal income tax return as determined under the federal income tax regulations, (Sub-Chapter A Part 1 of the Internal Revenue Code) if such return were to be filed on the date of the mortgage application.
- (15) *Persons and Families of Lower and Moderate Income* means for purposes of the Homeownership Loan Program households whose gross annual income does not exceed the limits established by the Board subject to approval of the Bond Finance Committee; but which will not in any event exceed the income limits prescribed in Section 143(f) of the Internal Revenue Code of 1986, as amended.
- (16) *Qualified Sponsor* means sponsors, developers, builders, purchasers and licensed general contractors qualified under the Act and these regulations and approved by the Board pursuant to its authority granted by Section 3 (17) of the Act, *T.C.A. §13—23—103(17)*.
- (17) *Adjusted Income* means the gross annual income of all members of the household from all sources (before taxes and withholdings), after deducting the following:
 - (a) a credit in an amount equal to the lesser of \$1,000.00 or 10% of total annual income of all household members,
 - (b) a credit in an amount equal to all earnings of any dependent household member who is a minor under 18 years of age, or who is physically or mentally handicapped as determined by the agency based on medical evidence from a licensed physician,
 - (c) a credit in the amount of \$500.00 for each dependent for whom an exemption is allowed to the head of household pursuant to Section 151 of the Internal Revenue Code [other than the head of household as determined by the agency rule 101(12)],

(Rule 0770-1-1-.01, continued)

- (d) non-recurring income as determined by the agency in accordance with its Rules of Practice, and
 - (e) a credit in an amount equal to one-half (1/2) of the total earnings of all household members over 18 years of age, who are secondary wage earners (those wage earners other than the head of household), provided, however, such credit shall not exceed \$2,000.00.
- (18) *Persons and Families of Lower and Moderate Income.* For the purpose of the Rental Housing Loan Program Rules 0770—1—4 of the regulations, “persons and families of lower and moderate income” shall be those households whose “Adjusted Income” does not exceed the median family income, as determined by the most recently available HUD statistics applicable to those persons and families as determined by the agency to be within the county in which the housing development is located. The agency may vary the applicable county median family income on the basis of its finding higher or lower prevailing costs and conditions of housing facilities available for housing and housing costs within the county in which the housing development is located.
- (19) *Urban County* means: Anderson, Blount, Bradley, Carter, Cheatham, Coffee, Davidson, Dickson, Hamblen, Hamilton, Hawkins, Knox, Madison, Marion, Maury, Montgomery, Putman, Robertson, Rutherford, Sequatchie, Sullivan, Sumner, Tipton, Unicoi, Union, Washington, Williamson, and Wilson counties.
- (20) *Non-Urban County* means any county not defined as an urban county.

Authority: T.C.A. §13—23—115(18). **Administrative History:** Original rule filed July 24, 1974; effective August 23, 1974. Amendment filed November 12, 1974; effective December 12, 1974. Amendment filed September 19, 1975; effective October 19, 1975. Amendment filed April 7, 1976; effective May 7, 1976. Amendment filed January 28, 1977; effective February 28, 1977. Amendment filed August 15, 1979; effective September 28, 1979. Amendment filed February 20, 1980; effective April 5, 1980. Amendment filed April 29, 1981; effective July 29, 1981. Amendment filed February 26, 1982; effective June 1, 1982. Amendment filed October 8, 1982; effective November 8, 1982. Amendment filed August 12, 1992; effective September 26, 1992.

0770—1—1—.02 RULES OF PRACTICE. Instructions, rules of practice and guidelines for the receipt and processing of applications for Agency mortgage loans, the issuance of Agency mortgage loan commitments and the under-taking of mortgage loan closings, and the taking of other internal actions as may be necessary or desirable for the implementation and administration of all aspects of the Agency’s programs may be established and modified from time to time by the Agency, at all times consistent with the provisions of the Act and the Agency by-laws.

Authority: T.C.A. §13—23—115 (18). **Administrative History:** Original rule filed July 24, 1974; effective August 23, 1974.

0770—1—1—.03 FORMS.

- (1) Forms to be employed for the making and processing of applications for Agency mortgage loans and for occupancy in housing financed by an Agency mortgage loan and for the administration of all matters related thereto shall be prepared, revised and amended from time to time by the Agency, and shall specify the information to be included therein and the supporting materials to be submitted therewith.
- (2) Forms of documents to be employed with respect to Agency mortgage loans, other Agency loans and the issuance and sale of Agency notes and bonds and shall be prepared, revised and amended from time to time by the Agency, and the appropriate forms of such documents shall be employed with respect to all matters relating to Agency mortgage loans and other Agency loans.

(Rule 0770-1-1-.03, continued)

- (3) The Agency reserves the right to pursue all remedies prescribed by law, including without limitation those provided in §8 of the Act, T.C.A. §13—23—118 for breach or violation of any provision of any Agency loan document referred to in 0770—1—1—.03 (2) hereof.

Authority: T.C.A. §13—23—115 (18). **Administrative History:** Original rule filed July 24, 1974; effective August 23, 1974.

0770—1—1—.04 AGENCY MORTGAGE LOANS GENERALLY.

- (1) Upon formal announcement the Agency will from time to time be prepared to:
 - (a) make insured mortgage loans to persons and families of low and moderate income for the acquisition of ownership and occupancy of new and existing housing units more particularly described in 0770—1—2—.01 through .21 of these Rules and Regulations;
 - (b) make insured construction loans pursuant to T.C.A. §13—23—116 to qualified housing sponsors and individuals for the development and construction or rehabilitation of a housing unit(s) as more particularly described in Part III of these Rules and Regulations and
 - (c) make insured mortgage loans to housing sponsors qualified under Rule 0770—1—1—.01 (16) for the development and construction, rehabilitation and/or acquisition of multi-family non-owner occupied rental housing developments, as more particularly described in Part IV of these Rules and Regulations.

Authority: T.C.A. §13—23—115 (18). **Administrative History:** Original rule filed July 24, 1974; effective August 23, 1974.

0770—1—1—.05 FEDERALLY ASSISTED MORTGAGE LOANS. When a housing development or housing unit is financed by an Agency mortgage loan, which Agency mortgage loan, in whole or in part, is a federally insured mortgage or is otherwise assisted or aided, directly or indirectly, by the Federal government, the Agency's action in authorizing such an Agency mortgage loan shall have the effect of adopting as the Agency's rules and regulations as to the housing development or housing unit financed by such Agency mortgage loan, or the part thereof which is assisted or aided by the Federal government as aforesaid, rules and regulations provided in the Federal government program pursuant to which the Agency mortgage loan or part thereof is assisted or aided by the Federal government as aforesaid, to the extent not inconsistent with the provisions of the Act, including particularly rules and regulations as to the income limitations for initial occupancy of the subject housing development, housing unit or part thereof, but only to extent that any provision of these Rules and Regulations is consistent with the provisions of such Federal Rules and Regulations.

Authority: T.C.A. §13—23—115 (18). **Administrative History:** Original rule filed June 24, 1974; effective August 23, 1974.

0770—1—1—.06 ACCEPTANCE OF AID AND GUARANTIES.

- (1) Pursuant to §§5 (13) (T.C.A. §13—23—115 (13)) and 9 of the Act, T.C.A. §13—23—119, the Agency Board, by Resolution, may accept gifts, grants, loans, contributions, or other aid, including insurance and guaranties, from the Federal government, the State of Tennessee or any agency thereof, or any other source in furtherance of the purposes of the Act; do any and all things necessary in order to avail itself of such aid; agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guaranties or other aid may be made; and, authorize and direct the execution on behalf of the Agency of any agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance, guaranties or other aid.
- (2) Without limitation on the provisions of Rule 0770—1—1—.06 (1) thereof, the Agency Board by Resolution may accept any insurance or guaranty or commitment to insure or guarantee its bonds or

(Rule 0770-1-1-.06, continued)

notes issued for the purpose of financing real property acquisition and housing or land development, or both, pursuant to housing, community development or other Federal or State assistance programs; accept any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise; and accept any public service grants for providing essential public services, and authorize and direct the execution on behalf of the Agency of any agreement which it considers necessary or appropriate with respect thereto.

Authority: T.C.A. §13—23—115 (13). *Administrative History:* Original rule filed July 24, 1974; effective August 23, 1974. Amendment filed November 12, 1974; effective December 12, 1974.

0770—1—1—.07 WAIVER.

- (1) The Agency Board by Resolution may waive or vary particular provisions of these Rules and Regulations
 - (a) to conform to the requirements of the Federal government in connection with any housing development or housing unit with respect to which Federal assistance is sought, or
 - (b) due to exceptional circumstances if, in the determination of the Agency Board, the application thereof to a specific case or under an emergency situation may result in undue hardship.

Authority: T.C.A. §13—23—115 (13). *Administrative History:* Original rule filed July 24, 1974; effective August 23, 1974.

0770—1—1—.08 AMENDMENT. These Rules and Regulations may be amended and supplemented by the Agency at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

Authority: T.C.A. §13—23—115 (18). *Administrative History:* Original rule filed July 24, 1974; effective August 23, 1974.

0770—1—1—.09 SEPARABILITY. If any clause, sentence, paragraph, section or part of these Rules and Regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgement shall have been rendered.

Authority: T.C.A. §13—23—115 (18). *Administrative History:* Original rule filed July 24, 1974; effective August 23, 1974.

0770—1—1—.10 PURCHASE OF AGENCY OBLIGATIONS NOT REQUIRED. No person (as that term is defined in §7701 (a) (1) of the Internal Revenue Code of 1954, as amended) or related person (as that term is defined in §103 (c) (6) (C) of the Internal Revenue Code of 1954, as amended) from whom the Agency may acquire Eligible Mortgages, as that term is defined in the Housing Bond Resolution (Mortgage Finance Program) adopted by the Agency on November 20, 1974, shall be required by the Agency pursuant to an agreement, formal or informal, to purchase the Agency's Mortgage Finance Program Bonds, in an amount related to the amount of Eligible Mortgages to be acquired from such person by the Agency.

Authority: T.C.A. §13—23—115 (18). *Administrative History:* Original rule filed December 23, 1974; effective January 22, 1975.