

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	08/08/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 9/19/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

05	05	01	.01-.32
05	05	02	.02, .04, .06, .08, .11, .14 and .17
05	05	05	.02-.08, .12-.14, .16, .18 and .24
05	05	07	.01 through .31
05	05	08	.01 through .28

3. Name of Promulgating Authority

Department of Housing and Community Development

4. Name of Regulations Coordinator
Mark S Petruskas

Telephone Number
410-514-7834

Mailing Address

100 Community Place

City	State	Zip Code
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petruskas@dhcd.state.md.us

5. Name of Person to Call About this Document

Honora W. Sutor

Telephone No.

410-514-7819

Email Address

Sutor@mdhousing.org

6. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 1, 2014.

- Repeal of Existing Regulations

- Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Honora W. Sutor, Assistant Attorney General, (telephone #410-514-7819) on August 1, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Raymond A. Skinner

Title

Telephone No.

Secretary

410-514-7005

Date

August 4, 2014

Title 05
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

Subtitle 05 MULTIFAMILY HOUSING PROGRAMS

05.05.01 Rental Housing Program

Subtitle 05 MULTIFAMILY HOUSING PROGRAMS

05.05.02 Multi-Family Housing Revenue Bond Financing Program

Subtitle 05 MULTIFAMILY HOUSING PROGRAMS

05.05.05 Partnership Rental Housing Program

Subtitle 05 MULTIFAMILY HOUSING PROGRAMS

05.05.07 Maryland Housing Rehabilitation Program — Multifamily Rehabilitation Program

Subtitle 05 MULTIFAMILY HOUSING PROGRAMS

05.05.08 Nonprofit Rehabilitation Program

Authority: 05.05.01: Housing and Community Development Article, §§4-401—4-411, Annotated Code of Maryland 05.05.02: Housing and Community Development Article, §2-111 and Title 4, Subtitle 2; State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04 05.05.05: Housing and Community Development Article, Title 4, Subtitle 12; State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04 05.05.07: Housing and Community Development Article, §§4-901—4-925; State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland Executive Orders 01.01.1992.27C and 01.01.1998.04 05.05.08: Housing and Community Development Article, Title 4, Subtitle 9; State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland Executive Orders 01.01.1992.27C and 01.01.1998.04

Notice of Proposed Action

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The Secretary of Housing and Community Development proposes to (1) To repeal in their entirety Regulations .01-.32 under COMAR 05.05.01 Multifamily Rental Financing Programs;

(2) To adopt new Regulations .01 through .35 under COMAR 05.05.01 Rental Housing Program;

(3) To amend Regulations .02, .04, .06, .08, .11 and .14, and add new Regulation .17 under COMAR 05.05.02 Multi-Family Housing Revenue Bond Financing Program;

(4) To amend Regulations .02-.08, .12-.14, .16, .18 and .24 under COMAR 05.05.05 Partnership Rental Housing Program;

(5) To repeal in their entirety Regulations .01 through .31 under COMAR 05.05.07 Maryland Housing Rehabilitation Program — Multifamily Rehabilitation Program; and

(6) To repeal in their entirety Regulations .01 through .28 under COMAR 05.05.08 Nonprofit Rehabilitation Program.

Statement of Purpose

The purpose of this action is to conform the regulations to the Multifamily Rental Housing Programs Efficiency Act, Chapter 229 of the Laws of Maryland 2014 (HB 453).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Elaine Cornick, Deputy Director of Multifamily Housing, Division of Development Finance, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7449 , or email to cornick@mdhousing.org, or fax to 410-987-4097. Comments will be accepted through October 19, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special funds (Rental Housing Loan Program Fund S00317) and General Obligation Bond funds will be used for the Rental Housing Program.

General Obligation Bond funds will be used for the Partnership Rental Housing Program.

Tax-exempt housing revenue bond funds will be used for the Multifamily Bond Program.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The Multifamily Rental Housing Programs Efficiency Act, Chapter 29 of the Laws of Maryland 2014 (HB 453) resulted in the consolidation and streamlining of four rental housing programs (RHPP, NRP, ERHP and MHRP-MF) into one Rental Housing Program (RHP) and revisions to two other rental housing programs (MBP and PRHP) to correspond to the new RHP. Funding for RHP is consistent with the four prior programs and no funding changes were made to PRHP and MBP.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The Multifamily Rental Housing Programs Efficiency Act, Chapter 29 of the Laws of Maryland 2014 (HB 453) resulted in the consolidation and streamlining of four rental housing programs (RHPP, NRP, ERHP and MHRP-MF) into one Rental Housing Program (RHP) and revisions to two other rental housing programs (MBP and PRHP) to correspond to the new RHP. Funding for RHP is consistent with the four prior programs and no funding changes were made to PRHP and MBP.

G. Small Business Worksheet:

Attached Document:

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 05 MULTIFAMILY HOUSING PROGRAMS

Chapter 01 Rental Housing Program

Authority: Housing and Community Development Article, §§4-401—4-411, Annotated Code of Maryland

.01 Scope.

A. This chapter prescribes the policies, procedures, and authorizations for making loans from and administering the Rental Housing Program.

B. This chapter is applicable to the Maryland HOME Program (rental housing development only) as set forth under COMAR 05.12.01.

C. Projects which receive funding under this chapter may also receive low income housing tax credits, which are governed by COMAR 05.05.06 and by federal law. For these projects, if any provision of this chapter conflicts with any law or regulation related to low income housing tax credits, the more restrictive provision shall apply.

.02 Objectives.

The basic objectives of the Rental Housing Program are to:

A. Increase or preserve the supply of decent, safe, and sanitary rental housing in the State for occupancy by households of limited income by providing financial assistance for certain costs of acquiring, constructing, or rehabilitating rental housing; and

B. Revitalize designated neighborhoods through the conversion of office and other commercial space to rental housing.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Act” means the Housing and Community Development Article, Annotated Code of Maryland, as amended.

(2) “Administration” means the Community Development Administration, a unit of the Division of Development Finance of the Department.

(3) “Annual income” means annual income as defined by HUD at 24 CFR §5.609, as amended.

(4) “Applicable codes and standards” means:

(a) The applicable construction, health, safety, fire, occupancy, and other codes and standards in force in the political subdivision in which a project is located; or

(b) If the codes and standards under §B(4)(a) of this regulation do not exist or are determined by the Secretary to be insufficient to promote the purposes of the Act, then the codes and standards prescribed in COMAR 05.02.01.

(5) “Applicant” means a person, partnership, corporation, limited liability company, or other entity applying for a loan under the Program.

(6) “Bridge loan” means an interim loan used during the construction or rehabilitation of a project and repaid with cash proceeds realized from a syndicated sale of the project or with the proceeds of permanent loans from other sources.

(7) “Capital assistance loan” means a loan to a sponsor to finance all or a portion of a project's development costs.

(8) “Closing costs” means:

(a) Financing costs such as a credit report fee, title examination, loan origination fee, title insurance fee, application fee, survey fee, recording fees, State and local transfer taxes, and recording taxes;

(b) Prepaid expenses such as property taxes, ground rent, and any mortgage insurance premiums to be paid at closing; and

(c) Other costs incidental to the closing of a loan and acceptable to the Department.

(9) “County” means a county of the State or Baltimore City.

(10) Department.

(a) “Department” means the Department of Housing and Community Development, a principal department of the State.

(b) “Department” includes the Administration.

(11) “Development costs” means costs incurred to acquire, construct, or rehabilitate a project, as approved by the Department, including:

(a) Necessary studies, surveys, plans, and specifications;

(b) Reasonable fees for architectural, engineering, legal, accounting, or other special services;

(c) Special studies, including:

(i) Appraisals;

(ii) Compaction tests;

(iii) Test borings;

(iv) Market analyses;

- (v) Construction cost estimates; and
 - (vi) Environmental or other special engineering studies;
 - (d) Acquisition of land and improvements;
 - (e) Site preparation;
 - (f) Cost of labor and materials for new construction or rehabilitation, ancillary demolition and installation of improvements as set forth in approved plans and specifications;
 - (g) Acquisition of necessary machinery, equipment, and furnishings installed at the project, including household appliances normally supplied to tenants in the rental market;
 - (h) Initial occupancy expenses of the project including marketing and advertising costs;
 - (i) Indemnity and surety bonds;
 - (j) Premiums on hazard and liability insurance;
 - (k) Relocation expenses;
 - (l) Closing costs;
 - (m) Program administrative expenses; and
 - (n) Other costs and fees acceptable to the Department.
- (12) "Development team" means the applicant, the sponsor, the developer or co-developer, the guarantors, and the owner, including general partners or managing members, but not including limited partners and non-managing members of the foregoing, and architects, general contractors, management agents, and consultants affiliated with the project and any officer, director, or principal of any of the foregoing.
- (13) "Director" means the Director of the Division of Development Finance of the Department.
- (14) Elderly household.
- (a) "Elderly Household" means
 - (i) One or more individuals who occupy the same residential dwelling unit, at least one of whom is 62 years old or older;
 - (ii) For projects which also receive funding through one or more programs administered by HUD, an elderly family, elderly person, or elderly household, all as defined by HUD; or
 - (iii) Such other definition established by the Secretary pursuant to §4-101 of the Act.
 - (b) The Program director may approve an alternate definition of elderly household for a specific project in accordance with the standards established in the Program Guide.
- (15) "Equity" means the difference between the total project costs and the aggregate amount of indebtedness of the project, whether secured by the project or otherwise, from all sources including the Program, all as determined by the Department.
- (16) "Fund" means the Rental Housing Fund established under §4-504 of the Act which is a nonlapsing special fund consisting of all moneys appropriated or otherwise available and allocated to the Program.
- (17) Household.
- (a) "Household" means one or more individuals who occupy the same residential dwelling unit as their permanent residence.
 - (b) "Household" includes a family as defined in 24 CFR §5.403, as amended.
- (18) "Household of limited income" means a household whose total household annual income does not exceed the upper income limits established by the Secretary in accordance with §§4-402(c) and 4-404(b) of the Act and Regulation .11 of this chapter.
- (19) "Housing Finance Review Committee" means the Housing Finance Review Committee established under §4-208 of the Act.
- (20) "HUD" means the United States Department of Housing and Urban Development.
- (21) "Income-restricted project" means the acquisition, construction, rehabilitation, or operation of land and improvements that will be rented and occupied entirely or in part by households of limited income.
- (22) "Internal Revenue Code" means the Internal Revenue Code, Title 26 of the United States Code, as amended.
- (23) "Limited equity cooperative housing" means limited equity cooperative housing as defined in §143(K)(9)(C) of the Internal Revenue Code and the regulations adopted under it.
- (24) "Loan" means a loan made by the Department from the Fund under the Act and this chapter.
- (25) "Loan documents" means those documents required by the Department to evidence or secure the loan or enforce the requirements of the Act and this chapter.
- (26) Nonprofit Organization.
- (a) "Nonprofit organization" means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of a private shareholder or individual holding an interest in the entity.
 - (b) "Nonprofit organization" includes a qualified nonprofit organization as defined in §42(h)(5)(C) of the Internal Revenue Code.
- (27) "Office or other commercial space conversion" means the conversion to rental housing of a building that:
- (a) Is located in a sustainable community as defined in §§6-301(b) and 6-305 of the Act;
 - (b) Was built more than 30 years before an application is submitted to the Department to finance the conversion;
 - (c) Consists of at least two floors at or above ground level; and

(d) Was last used as office or other commercial space, including any improvements that might otherwise be considered residential rental property but were last used on a transient basis, such as hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, nursing homes, sanitariums, rest homes, and assisted living facilities.

(28) Office and Commercial Space Conversion Project.

(a) "Office and commercial space conversion project" means the acquisition or rehabilitation, or both, of land and improvements for office or other commercial space conversion.

(b) "Office and commercial space conversion project" includes a project that is part of a larger development that may include nonresidential uses.

(29) "Operating assistance loan" means a loan to a sponsor to pay some or all of the operating expenses as described in Regulation .05A(3) of this chapter of a completed project.

(30) "Political subdivision" means a county or municipal corporation of the State.

(31) "Program" means the Rental Housing Program established under Title 4, Subtitle 4 of the Act.

(32) "Program Director" means the Director of Multifamily Housing in the Division of Development Finance of the Department.

(33) "Program Guide" means the Multifamily Rental Financing Program Guide adopted by the Department, as amended from time to time.

(34) Project.

(a) "Project" means the acquisition, construction, or rehabilitation of buildings and improvements.

(b) "Project" includes income-restricted projects and office and commercial space conversion projects.

(35) "Relocation expenses" means compensation given to tenants displaced either temporarily or permanently by the acquisition, demolition, or rehabilitation of existing structures in connection with a project.

(36) "Residual receipts" means any cash remaining at the end of an annual fiscal period for a project after deducting from gross income all:

(a) Sums due under the loan documents and any liens superior to the lien or other liens approved by the Department;

(b) Operating costs necessary to maintain or operate the project, including real estate taxes but excluding reserve for replacement deposits and debt service payments; and

(c) Amounts distributed to a sponsor as a permitted return on equity.

(37) "Scattered site development" means noncontiguous residential units developed and operated under a common plan of ownership and financing.

(38) "Secretary" means the Secretary of Housing and Community Development.

(39) "Shared living unit facility" means a dwelling which will accommodate two or more households when some or all of the living, dining, kitchen, or sanitary facilities are to be shared by the households, which shall include a single room occupancy unit.

(40) Sponsor.

(a) "Sponsor" means all of the following:

(i) A borrower or obligor on a loan made by the Department to finance a project;

(ii) The person or entity principally responsible for the project and loan application before the loan closing;

(iii) Any person or entity who has an ownership interest in, or identity of interest with, a person or entity under §§ B (40)(a)(i) or (ii) of this regulation; and

(iv) An applicant that develops a project and qualifies under §§B(40)(a)(i), (ii), or (iii) of this regulation.

(b) "Sponsor" includes a nonprofit sponsor.

(41) "State" means the State of Maryland.

.04 Eligible Sponsors.

Sponsors shall meet the following minimum requirements to qualify for a loan:

A. Be in good standing and qualified to do business in the State;

B. Have the legal capacity and all necessary legal authorization to incur the obligations of the loan; and

C. Meet all threshold criteria under Regulation .22 of this chapter.

.05 Eligible Uses.

A. Loan funds may be used for:

(1) Capital assistance loans to sponsors for financing development costs of projects;

(2) Loans to finance acquisition only of existing or completed:

(a) Vacant projects; or

(b) Occupied projects, if:

(i) The rental units are not occupied before acquisition or rehabilitation by households of limited income;

(ii) The number of units to be subject to income restrictions will be increased substantially;

(iii) Existing income limits will be reduced from current levels;

(iv) Units have been condemned or cited for code violations and the tenants are likely to be subject to displacement; or

(v) Any existing federal capital or operating subsidies will be lost without financing through the Program;

- (3) Operating assistance loans to sponsors for existing or completed income-restricted projects including:
 - (a) Buy down of the interest rate on a conventional permanent loan;
 - (b) Payments of principal and interest on superior mortgage liens;
 - (c) Maintenance and repair costs;
 - (d) Property taxes;
 - (e) Hazard and liability insurance premiums;
 - (f) Utilities;
 - (g) Permits and licenses;
 - (h) Reasonable management fees and expenses as determined by the Department;
 - (i) Rent subsidies;
 - (j) Closing costs;
 - (k) Department administrative expenses; and
 - (l) Other project operating expenses or fees approved by the Department;
 - (4) Acquisition by the Department of a completed project or the land for a project, and subsequent transfer of the project or land, or both, to a sponsor;
 - (5) Purchase or lease by the Department of a project and, after construction or rehabilitation by the Department, sale or transfer of the project to a sponsor upon terms or conditions which make it economically feasible for the sponsor to rent to households of limited income; or
 - (6) Bridge loans.
- B. Loan funds may not be used for:
- (1) Work-out financing for troubled projects;
 - (2) Refinancing of existing debt;
 - (3) Financing for a project for which the application is received after:
 - (a) Acquisition;
 - (b) Assumption by the sponsor of the liability for the costs of acquisition or rehabilitation; or
 - (c) Completion of rehabilitation intended to be financed in whole or in part by the loan;
 - (4) Financing only minor improvements which are not required to make the housing decent, safe, and sanitary in accordance with applicable State and local codes;
 - (5) Transaction costs and fees associated with the offering and syndication of a project; or
 - (6) Developer fees.

.06 Eligible Projects.

- A. Land and Improvements.
- (1) Land and improvements comprising a project shall meet the following minimum requirements:
 - (a) Be located within the State;
 - (b) When the project is complete, be in compliance with zoning requirements and applicable codes and standards;
 - (c) Be owned by the Department or a sponsor in fee simple or a leasehold estate, with title acceptable to the Department;
 - (d) If the project is contained within a larger undertaking, provide equal access to tenants of the project to any amenities and common areas within the larger undertaking;
 - (e) Provide:
 - (i) Five or more traditional rental housing units;
 - (ii) Two or more units in a shared living unit facility; or
 - (iii) Emergency or temporary shelter to multiple persons.
 - (2) Land and improvements comprising a project may be a scattered site development.
- B. A project is eligible only if:
- (1) The Department has complied with COMAR 05.01.06.06; and
 - (2) The Secretary has issued the written determination required under COMAR 05.01.06.07.
- C. Loans for office and commercial space conversion projects shall meet the requirements of §§A and B of this regulation and the following additional requirements:
- (1) The sponsor shall have a commitment of funds for the project from private, local, or federal sources so that upon receipt of financial assistance from the Program there will be adequate funding to assure completion of the project;
 - (2) Sufficient funds to complete the project would not be available to the sponsor without the financial assistance from the Program;
 - (3) The financial assistance requested from the Program is the least amount of money necessary to complete the project as determined by the Department;
 - (4) The project shall be ready to proceed upon receipt of financial assistance from the Program;
 - (5) The project will provide substantial economic development to a sustainable community as defined in §§6-301(b) and 6-305 of the Act; and
 - (6) The amount of the loan does not exceed the maximum loan amount in Regulation .14C of this chapter.

D. An income-restricted project may include structures suitable for use by households of limited income residing in the project or in surrounding communities such as cafeterias or dining halls, community rooms or buildings, and workshops or other essential services facilities.

E. A project may not be:

- (1) A nursing home;
- (2) A hospital;
- (3) A sanitarium;
- (4) A life care facility;
- (5) A retirement home providing significant services other than housing unless licensed under Maryland law as an assisted living facility;
- (6) A dormitory;
- (7) Housing solely for members of a social organization, such as a fraternity or sorority house;
- (8) Housing provided by an employer solely for its employees; or
- (9) A trailer park.

F. The project shall meet all threshold criteria under Regulation .22 of this chapter.

.07 Political Subdivisions; Notice and Contribution.

A. Notice.

(1) For each project for which an application is received under this chapter, the Department shall provide written notice and reasonable opportunity to comment on the project to the chief executive officer or the equivalent officer and the head or president of the legislative body of the political subdivision in which the proposed project is located.

(2) If a proposed project is in a municipal corporation, the notice required under §A(1) of this regulation shall be sent to the chief executive officer and the head or president of the legislative body of the municipal corporation, not the surrounding county.

(3) The notice provided under §A(1) of this regulation shall contain the following information about the proposed project:

- (a) Date of application;
- (b) Name and description of project;
- (c) Address of project;
- (d) Sponsor of the project and sponsor's contact information;
- (e) Amount of funding requested;
- (f) Amount, type and provider of other sources of funding;
- (g) Total number of units;
- (h) Number of units reserved for households of limited income, including the income and rent limits; and
- (i) Such other information as the Department deems relevant.

B. Contribution. In reviewing applications for funding under the Act and this chapter, the Department shall consider the degree of political subdivision support provided to the proposed project, including contribution of land, abatement of taxes or fees, direct or indirect rental subsidies, and grants.

.08 Geographic Distribution of Funds.

A. It is the intent of the Department that Program funds be distributed and made available Statewide.

B. The Department shall undertake best efforts to ensure some Program funds are distributed Statewide, including the following geographic areas of the State:

- (1) Eastern Shore counties;
- (2) Western Maryland counties;
- (3) Baltimore metropolitan area counties; and
- (4) Washington, D.C. metropolitan area counties and Southern Maryland counties.

.09 Sponsor's Equity Contribution.

A. For income-restricted projects, the Department may establish requirements for the amount of equity a sponsor must contribute to a project which may vary for different types of sponsors, including nonprofit sponsors.

B. Sponsors of office and other commercial space conversion projects shall make an equity contribution of at least 10 percent of the residential development costs of the project.

.10 Limit on Return of Equity.

A. Projects may be subject to a limitation on return of equity or an equity participation agreement, at the discretion of the Department.

B. Periodically, at the convenience and discretion of the Department, residual receipts held by the Department in connection with a limitation on return on equity imposed under this regulation, if any, shall be credited to the Fund. At the option of the Department, residual receipts may be disbursed for the project which generated the receipts or for any other project.

C. Sponsors of office and commercial space conversion projects are not subject to any limitation on return of equity.

.11 Income Limits

A. The Secretary shall establish income limits for households of limited income and may revise the limits from time to time. The Secretary may establish different limits for different areas of the State and may establish lower limits within any area or for a particular project.

B. In establishing or revising income limits under this regulation, the Secretary shall consider:

- (1) The median income for the area;
- (2) The minimum income needed to afford available standard rental units in the area;
- (3) Federal income guidelines, including the requirements of the federal low-income housing tax credit program;

and

- (4) Any other relevant factor.

C. Limits for Shared Housing. For the purpose of determining compliance with the income limits, the Department may not aggregate the income of two or more individuals or households living together in one unit if the unit is to provide a shared living unit facility, group housing, congregate housing, or temporary shelters.

.12 Restrictions on Ownership and Occupancy.

A. Change of Ownership. During the loan term, the sponsor of the project may not sell, cease to own, assign, transfer, or dispose of all or any part of the sponsor's interest in the project or the real property on which it is situated, without the prior written consent of the Department, except for leases of individual units or as set forth in the loan documents.

B. Income-restricted projects are subject to the occupancy requirements set forth in §§C—G of this regulation, which occupancy restrictions shall be evidenced by a covenant running with the land which shall be recorded in the land records of the county where the project is located.

C. Minimum Restricted Occupancy Period. The project shall be maintained as rental housing for households of limited income for a minimum of the greater of:

- (1) 15 years; or
- (2) The number of years required by federal law.

D. Limited Income Occupancy Requirements.

- (1) The minimum number of rental units set aside under this regulation shall be the greater of:

(a) The number that bears the same ratio to the whole number of rental units in the project as the amount the Program loan bears to the whole financing of the project or undertaking; or

(b) The number of rental units chosen by the sponsor to satisfy federal occupancy requirements if the project receives federal low-income housing tax credits or is financed in part with government-issued, federally tax-exempt revenue bonds.

(2) Units restricted for occupancy to meet other federal, state or local occupancy requirements may be counted toward the minimum number of units required under §D(1) of this regulation.

(3) Units occupied by households that continue to meet applicable federal occupancy restrictions under §D(1) of this regulation shall be deemed to continue to meet the applicable restrictions of this regulation.

E. The maximum rent for each unit in a project shall equal the difference between:

- (1) 30 percent of the imputed tenant income as calculated in §F of this regulation; and

(2) A utility allowance based on standards established by the Department in accordance with Treasury Regulation 1.42-10, as amended, for the low income housing tax credit program.

F. The imputed tenant income shall equal the restricted unit income limit for:

(1) A household which is considered to have a size of 1.5 times the number of bedrooms in the unit for units with one or more bedrooms; and

- (2) One person for efficiency and single room occupancy units.

G. For units occupied by elderly households, the imputed household size under §F(1) of this regulation may not exceed three persons regardless of the number of bedrooms.

H. If fewer than all of the units in a project are income-restricted, the location of the income-restricted units may change from time to time as tenants move, and the rental housing units in a project which are not income-restricted units are not required by the Program to be occupied by persons meeting income restrictions.

I. Limited Equity Cooperative Housing.

(1) The units in a limited equity cooperative housing project shall be occupied by households of limited income at the time of initial occupancy, and following any subsequent sale, resale, or transfer of shares, or subletting which results in a change in the household occupying the unit.

(2) If existing rental housing is converted to limited equity cooperative housing through the assistance of a loan from the Program, an existing tenant may not be required to vacate the premises solely because the tenant does not elect to become a stockholder in the corporation owning the limited equity cooperative housing.

.13 Prepayment.

A. A sponsor of an income-restricted project may prepay a loan at any time subject to the requirements of:

- (1) §B of this regulation; and

(2) The continuing restrictions under the occupancy covenants, if the prepayment occurs before the expiration of the covenants.

B. A sponsor of an income-restricted project who prepays a program loan before maturity shall agree to:

- (1) Provide written notice to each tenant residing in the project which describes the impact of the prepayment on the tenant, and, if applicable, any assistance to which the tenant is entitled;
 - (2) Provide notice of the prepayment to the Department, the political subdivision in which the project is located, and any interested parties registered with the Department;
 - (3) Offer a right of first purchase to the Department, the local political subdivision, the local public housing authority, if any, and any parties registered with the Department;
 - (4) Provide a lease extension for at least one year following the notice of the prospective prepayment action to each tenant residing in an assisted unit;
 - (5) Make relocation assistance payments to each tenant in an amount determined by the Department;
 - (6) Provide three-year lease extensions or three months rent equivalent payments to 20 percent of the tenants who live in assisted units and qualify as elderly households, disabled, or households with minors; and
 - (7) Comply with any procedural requirements of the Department with respect to the right of first purchase, relocation payments, and lease extensions.
- C. A sponsor of an office and commercial space conversion project may prepay a loan at any time.

.14 Loan Terms.

A. Interest Rates.

- (1) Interest rates for each loan shall be established based on the underwriting of each project.
- (2) The maximum interest rate on a loan shall be a rate which does not impair the financial viability of the project or the capability of the sponsor to provide rents which are affordable to households of limited income. The interest rate on a loan may be as low as zero percent, based upon projected cash flows for the proposed project.
- (3) Bridge loans or portions of loans which will be repaid with the cash proceeds realized from a syndicated sale of the project shall have interest rates equal to private lending rates for bridge loans, unless in the determination of the Department a lower interest rate is required to ensure the financial feasibility and viability of the project. A lower rate approved by the Department under this subsection may not be less than the interest rates permitted under §A(1) and (2) of this regulation based upon the use and occupancy of the project.
- (4) For income-restricted projects, the Department may establish additional provisions related to interest rates in the Program Guide.

B. Repayment.

- (1) Terms for repayment of principal and interest shall be established based on the underwriting for each project and in a manner which does not impair the financial viability of the project or the capability of the sponsor to provide rents which are affordable to households of limited income.
- (2) Repayment of principal and interest may be deferred at the discretion of the Department to meet the goals of this regulation.
- (3) For income-restricted projects, the Department may establish additional provisions related to repayment terms in the Program Guide.

C. Maximum Loan Amount.

- (1) The maximum amount of funds to be provided to an income-restricted project from the Program or the Maryland HOME Program under COMAR 05.12.01 may not exceed \$2,000,000, unless the Housing Finance Review Committee has recommended and the Secretary has approved an exception on the basis that:
 - (a)(i) Other potential sources of funds have been sought and clearly are unavailable;
 - (ii) It is not feasible to reduce the size or scope of the project; and
 - (iii) The project serves a high public purpose, such as serving a significant percentage of very low income households or being located in a high cost area; or

(b) an increase in the loan amount addresses administrative or programmatic needs of the Department and will result in an effective and appropriate use of DHCD resources.
- (2) The maximum amount of funds to be provided to an office and commercial space conversion project:
 - (a) From the Program, shall be the lesser of:
 - (i) 20 percent of the total costs for the project; or
 - (ii) \$1,500,000; and
 - (b) From all State-funded and State-administered programs, may not exceed 30 percent of the total costs of the undertaking, with the following limitations:
 - (i) State historic tax credits are excluded from the 30 percent limit; and
 - (ii) No other funds from the Fund, federal low income housing tax credits, or State bond-allocated funds may be used on the project.

D. Term.

- (1) The permanent loan term of each capital assistance loan may not exceed 40 years from the later of the date of acquisition or completion of construction or rehabilitation of the project, except when other sources of financing require a longer term.
- (2) The term of a bridge loan generally may not exceed the greater of two years or the equity payment schedule and shall be based on the size and complexity of the project.

(3) The term of a loan during rehabilitation or construction generally may not exceed two years and shall be based on the size of the project and the nature of the rehabilitation or construction financed by the loan.

(4) The term of an operating assistance loan generally may not exceed 15 years and may be subject to renewal at the Department's discretion.

E. Late Charges. Late charges, as permitted by law, may be imposed.

.15 Insurance Requirements.

A. Mortgage Insurance. Mortgage insurance is not required for loans made from the Program.

B. Property, Liability, and Other Insurance.

(1) At or before closing of a loan, and at such other times as required by the Department, the sponsor shall provide evidence that the sponsor, contractor, and other parties, have obtained and maintained the following insurance:

- (a) Owner's liability;
- (b) Owner's property or hazard or contractor's builder's risk;
- (c) Contractor's liability;
- (d) Architect's errors and omissions;
- (e) Engineer's errors and omissions; and
- (f) Flood insurance, if the project is located in a flood hazard zone.

(2) All insurance required under §B(1) of this regulation shall meet the following requirements:

- (a) Be written by a company registered with the Maryland Insurance Administration;
- (b) Be in force at the time of closing;
- (c) Not be terminable without prior notification to the Department; and
- (d) Contain such other terms and coverage satisfactory to the Department.

(3) In addition to the requirements of §B(2) of this regulation, owner's liability insurance shall:

- (a) Name the Department as an additional insured; and
- (b) Remain in force for the duration of the loan.

(4) In addition to the requirements of §B(2) of this regulation, contractor's liability insurance shall:

- (a) Name the Department as an additional insured; and
- (b) Remain in place through final closing or such later date as the Department requires.

(5) In addition to the requirements of §B(2) of this regulation, owner's property or hazard or contractor's builder's risk insurance shall:

- (a) Name the Department as a loss payee, and mortgagee; and
- (b) Remain in force for the duration of the loan.

(6) For sponsors that are political subdivisions, the Department shall evaluate any self-insurance program to determine if adequate coverage and terms acceptable to the Department can be provided and accept coverage under the self-insurance program subject to this determination.

.16 Environmental Review.

A. Each project shall comply with applicable local, State, and federal environmental laws and regulations.

B. Sponsors may be required, at the discretion of the Department, to conduct a screening of the proposed site for environmental conditions, including man-made hazards, storm water runoff, underground storage tanks, lead-based paint, radon gas, PCBs, and asbestos.

C. If the initial screening indicates adverse or potentially adverse environmental conditions, the Department may require a more detailed physical investigation, review of historical records, testing and treatment, or abatement of the environmental condition as a requirement of the loan.

.17 Reserves and Security.

A. Reserve for Replacement. The Department may require the sponsor to make periodic payments to the Department or a senior lender for a reserve for replacement account for future repairs, maintenance, and improvement of the project.

B. Appraisal. The sponsor or the Department, in the Department's discretion, shall obtain an appraisal by an appraiser acceptable to the Department, showing the value of the land and any improvements on the land before and after the proposed rehabilitation or construction in a form and manner acceptable to the Department. The sponsor shall bear the cost of the appraisal.

C. Escrow Account. If there is no prior mortgage or deed of trust requiring the payment of expenses to the mortgagee, the mortgage or deed of trust securing the loan shall require monthly payments to the Department in escrow, consisting of one-twelfth of annual real estate taxes, ground rent, property insurance premiums, and, when appropriate, other items for which payments are required by the Department. Interest may or may not be paid to the sponsors on escrows, in the Department's discretion.

D. Additional Security.

(1) The Department may require additional security from the sponsor both to assure completion of the construction or rehabilitation of the project, and to assure repayment of the loan.

(2) The additional security may be in the form of one or more of the following:

- (a) A cash escrow;

- (b) A letter of credit in an amount, form, and from a financial institution acceptable to the Department;
- (c) Depository accounts pledged to the Department;
- (d) Payment and performance bonds from a surety acceptable to the Department;
- (e) A completion assurance agreement executed by the sponsor and backed by some form of monetary collateral;
- (f) A guaranty of completion or loan payments, or both, executed by a third party acceptable to the Department;
- (g) A pledge of syndication proceeds;
- (h) A pledge of the developer's fee; or
- (i) Other collateral acceptable to the Department.

E. Superior Mortgagee's Agreement. For loans secured by a subordinate lien, the sponsor shall obtain the written agreement of each superior lender:

- (1) Acknowledging and consenting to the subordinate lien of the Department;
- (2) Agreeing to provide timely notice to the Department in the event of default by the sponsor on the superior mortgage; and
- (3) Agreeing to either suspend acceleration and foreclosure of the superior lien for a reasonable period of time if the Department brings current and maintains timely payments due on the superior mortgage or permit the Department to cure the event of default.

.18 Additional Requirements for Certain Loans.

A. Capital assistance loans shall meet the following additional requirements:

- (1) Loans shall be secured by a mortgage lien, which may be subordinate to other mortgage liens; and
- (2) The Department shall require the sponsor to provide a standard American Land Title Association Loan Policy, or other form of title policy acceptable to the Department and the Office of the Attorney General, for an amount equal to the maximum principal amount of the loan:
 - (a) Insuring the Department;
 - (b) Evidencing that title to the improvements and the real property on which the improvements are located on the date of closing is vested in the sponsor; and
 - (c) Containing only standard exceptions and encumbrances approved by the Department.

B. Operating Assistance Loans.

- (1) Security. The loans shall be made subject either to:
 - (a) The terms of a loan and security agreement, which need not be recorded; or
 - (b) A recorded mortgage lien which may be subordinate to other mortgage liens.
- (2) Investment Account. Loan funds disbursed subject to a loan and security agreement shall be deposited into an interest-bearing account for the benefit of the project and shall be invested, reinvested, and disbursed in accordance with the terms of an agreement between the sponsor and the Department. The Department shall maintain control over the investment account.
- (3) Insurance. At the discretion of the Department, a project receiving an operating assistance loan is not required to satisfy the insurance provisions of Regulation .15 of this chapter.

C. Deferred Payment Loans.

- (1) Amount of Deferred Payments. The Department may defer payments of principal or interest, or both, in the Department's discretion, to the minimum extent necessary based on:
 - (a) The sponsor's ability to repay the loan and the financial feasibility and viability of the project;
 - (b) Conformance with the requirements of the terms and conditions of any prior mortgage or deed of trust; or
 - (c) such additional provisions related to deferred payment loans established in the Program Guide.
- (2) Repayment of Deferred Loans.
 - (a) The loan documents shall provide for repayment of deferred amounts at the maturity date or at any earlier date established by the Department, or upon any default, sale or other transfer of the project, or sale or other transfer of any interest in the project. The Department may, but need not, charge interest on deferred interest.
 - (b) The Department may, in its discretion, require sponsors who receive bridge loans and who receive and syndicate an allocation of federal low-income housing tax credits or historic investment tax credits to share a portion of the proceeds of the syndication of the tax credits with the Department to repay deferred interest or pay all or a portion of the principal amount of the loan.

.19 Application Submission.

A. Applications for income-restricted projects shall be accepted:

- (1) In one or more competitive rounds to be announced by the Department annually in accordance with the procedures established in Regulation .20 of this chapter; and
- (2) At any time, subject to availability of funding for:
 - (a) Projects requesting financing from the Department's Multifamily Bond Program; or
 - (b) Pilot programs or other special initiatives in accordance with processing procedures established by the Department.

B. Applications for office and commercial space conversion projects shall be accepted in accordance with processing procedures established by the Department and shall be submitted by the political subdivision in which the project is located. If the project is located in a municipal corporation, the application shall be submitted by the municipal corporation, not the surrounding county.

C. Forms. Applications shall be made upon standard forms prescribed by the Department.

D. Documentation. Applications shall be accompanied by all documentation in the form and containing the information specified by the application procedures adopted by the Department, which may vary depending on the type of loan.

E. Fees and Charges.

(1) Amounts and time of payment of application fees, administration fees, financing fees, closing fees and other fees as may be required by the Department shall be as provided in a fee schedule set forth in the Program Guide, or as otherwise provided by the Department.

(2) The Department may charge sponsors for the following items, if initially paid for by the Department:

- (a) Market studies;
- (b) Construction cost estimates;
- (c) Recording fees and recording taxes or other charges incidental to recordation;
- (d) Survey;
- (e) Appraisal;
- (f) Title examination and title insurance; and
- (g) Investment fees.

(3) The Department may charge penalties to applicants, lenders, servicers, sponsors, or other individuals or entities that participate in the Program. The Department may restrict the fees and charges that servicers, political subdivisions, or other Program participants obtain from sponsors.

(4) Fees and charges referenced in this regulation may be financed by the Program loan.

.20 Application Review.

A. Each application for an income-restricted project competing in a funding round pursuant to Regulation .19 A(1) of this chapter shall be reviewed in accordance with Regulations .21 through .23 of this chapter.

B. Each application for an income-restricted project not competing in a funding round pursuant to Regulation .19 A(2) of this chapter shall be reviewed in accordance with Regulation .22 of this chapter or such other procedures established by the Department.

C. Applications for office and commercial space conversion projects shall be reviewed in accordance with procedures established by the Department.

.21 Project Priority Categories.

A. The Department may establish project priority categories which must be satisfied prior to review of a project for threshold criteria pursuant to Regulation .22 of this chapter.

B. The project priority categories under §A of this regulation shall be established by the Department in the Program Guide and may be modified from time to time to eliminate or add categories or criteria.

.22 Threshold Criteria.

A. The Department shall establish detailed threshold criteria, including the following categories:

- (1) Development team requirements;
- (2) Occupancy requirements;
- (3) Marketing requirements;
- (4) Tenant services;
- (5) Provisions for persons with disabilities or special needs;
- (6) Other financing commitments;
- (7) Underwriting requirements;
- (8) Readiness to proceed;
- (9) Site requirements;
- (10) Market studies; and
- (11) Development quality.

B. The threshold criteria under §A of this regulation shall be established by the Department in the Program Guide and may be modified from time to time to eliminate or add categories or criteria.

.23 Project Evaluation Criteria; State Bonus Points.

A. All projects in a round which meet the requirements of Regulations .21 and .22 of this chapter shall be evaluated on a point basis, which may include the following criteria:

- (1) Capacity of the development team;
- (2) Community context;
- (3) Public purpose;
- (4) Leveraging and cost-effectiveness; and

(5) Development quality.

B. At the completion of the review of projects under §A of this regulation, the Department may award bonus points to one or more projects based on one or more of the following considerations:

- (1) Project priority categories;
- (2) Geographic distribution;
- (3) Unique or time sensitive financing opportunities;
- (4) Urgent or recent changes in housing needs;
- (5) Economic development opportunities;
- (6) Changes in the equity or debt market related to low income housing tax credits or other funding sources;
- (7) Critical policy directives or goals; or
- (8) Fair housing considerations.

C. The project selection criteria and bonus points under §§A and B of this regulation shall be established by the Department in the Program Guide and may be modified from time to time to eliminate or add categories or criteria.

.24 Recommendation and Approval.

A. For income-restricted projects competing in a competitive round, after considering the scores under the project evaluation criteria of Regulation .23 of this chapter and the availability of resources, the Program staff shall select projects for review and recommendation for funding by the Housing Finance Review Committee. The number of projects selected will vary depending on the availability of funds.

B. For income-restricted projects not competing in a competitive round, the Program staff shall select projects for review and recommendation for funding by the Housing Finance Review Committee based on the availability of funding and such other procedures established by the Department.

C. For office and commercial space conversion projects, the Program staff shall select projects for review and recommendation for funding by the Housing Finance Review Committee based on the availability of funding and such other procedures established by the Department.

D. The Housing Finance Review Committee shall review the projects selected by Program staff under §§A, B or C of this regulation and recommend projects to the Secretary for reservation of funds and loan commitments, as appropriate, pursuant to Regulation .25 of this chapter.

E. Upon receipt of the recommendation of the Housing Finance Review Committee, the Secretary shall approve or disapprove the loan and the terms of the loan. A written determination that each loan, regardless of the loan amount, is statutorily authorized and approved by the Secretary shall be executed before the issuance of a reservation of funds or loan commitment, as appropriate, pursuant to Regulation .25 of this chapter.

F. The Secretary may approve a loan without the recommendation of the Housing Finance Review Committee:

- (1) In an emergency, when urgent action is required; or
- (2) For loans below the minimum amount established by the Housing Finance Review Committee.

.25 Reservation and Commitment.

A. Reservations. All projects competing in a funding round and approved by the Secretary pursuant to Regulation .24 of this chapter shall be issued a reservation letter by the Department. The reservation letter shall include basic proposed loan terms, a list of all additional information to be submitted for further review, and a processing schedule setting forth dates for the submission and review of all requested information and documentation.

B. Commitments.

(1) For projects competing in a funding round, upon satisfaction of all requirements in the reservation letter and the Secretary's determination, if any, or as otherwise required by the Program, the Program shall issue a commitment letter setting forth the terms and conditions of the loan.

(2) For projects not competing in a funding round, upon satisfaction of the requirements in the Secretary's determination, or as otherwise required by the Program, the Program shall issue a commitment letter setting forth the terms and conditions of the loan.

.26 Rejection, Reconsideration, Modification, and Withdrawal.

A. Rejection. If a loan application is rejected, the Department shall notify the sponsor in writing. The rejection letter shall state the reason the loan is rejected.

B. Reconsideration.

(1) A sponsor of an office and commercial space conversion project or an income-restricted project not competing in a round may request reconsideration of a rejection within seven days of receipt of notice of the rejection. The request shall be in writing and submitted to the Program Director. An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.

(2) A sponsor of an income-restricted project competing in a round may not request reconsideration of a rejection but may resubmit an application in a subsequent round or in accordance with the procedures established by the Department for income-restricted projects not competing in a round.

C. Modifications.

(1) A sponsor may not modify a project in a manner that affects any of the following factors without the prior review and approval of the Department:

- (a) The project cannot proceed in accordance with the schedule established by the Department and the sponsor;
 - (b) The project changes substantially from the initial submission, including:
 - (i) A change resulting in a score reduction of the lesser of 3 percent or an amount sufficient to lower the score below the cut off score for the round in which the project was approved;
 - (ii) A significant change in the project's design, financing, or amenities;
 - (iii) A material reduction in the project's income targeting or unit count;
 - (iv) A change of the project's sponsor or other member of the development team; or
 - (v) A change in the project's site;
 - (c) The project no longer meets the requirements of Regulations .21 and .22 of this chapter, as applicable; or
 - (d) Such other reasons as may be established in the Program Guide.
- (2) If a project is modified in violation of §(C)(1) of this regulation, the sponsor shall provide to the Department a detailed explanation of the modification, along with a written request for approval of the modification. After review of the sponsor's request and explanation, the Department may permit the modification or notify the sponsor that the modification is not acceptable to the Department. If an unacceptable modification is not cured within a time period acceptable to the Department, the reservation or commitment, as applicable, will be withdrawn from processing.

D. Withdrawal of Application.

(1) An applicant may withdraw an application at any time before closing of the loan by written notice to the Department.

(2) An applicant that withdraws its application may be required to bear any costs incurred by the Department, including, but not limited to:

- (a) Title examinations;
- (b) Credit reports;
- (c) Appraisals;
- (d) Market analyses;
- (e) Fees attributable to the Department's processing costs; and
- (f) Legal fees.

(3) The Department may withdraw an application from processing for the following reasons:

- (a) The project's developer, sponsor, owner or its general partner(s) or managing member(s) files for bankruptcy or is the subject of an involuntary bankruptcy;
- (b) The project is, for any other reason, no longer feasible;
- (c) The project's developer, sponsor or owner submits false, misleading or incomplete information to the Department;
- (d) The sponsor has failed to cure a modification unacceptable to the Department in the timeframe provided under §C of this regulation;
- (e) The project fails to meet the established timeframes for processing or otherwise fails to make reasonable progress toward closing; or
- (f) Such other reasons as may be established in the Program Guide.

.27 Loan Closing and Processing.

A. Initial Loan Closing. The sponsor shall furnish to the Department and its counsel satisfactory evidence of compliance with the terms and conditions of the loan before the closing of the loan. When all procedures and requirements are completed, a closing shall be arranged by counsel to the Department.

B. Loan Documents. The Department shall prescribe or approve the form and content of all documents, which may include a note, deed of trust, regulatory agreement, and other instruments that the Department may require to evidence or secure the loan or enforce the requirements of the Act or this chapter. The loan documents shall be executed at the loan closing.

C. Early Start.

(1) Construction or rehabilitation undertaken by the sponsor before the closing of the loan is at the risk of the sponsor, and does not bind or obligate the Department to make the loan.

(2) In certain circumstances and upon the request of a sponsor who has applied for a loan which has been approved by the Secretary, the Program may issue an early start letter which sets forth the conditions under which the Program may authorize the beginning of construction or rehabilitation of a project before the closing of the Department's loan.

(3) The early start approval letter sets forth various conditions, such as receipt by the Program of acceptable plans and specifications or scope of work and evidence of the availability of acceptable assurance of completion, which shall be complied with before beginning construction or rehabilitation. If the conditions are complied with and the Program approves the beginning of construction or rehabilitation, then when the loan is closed, loan proceeds shall be used to reimburse the sponsor, as specified in the loan closing documents, for the approved costs incurred before loan closing.

D. Construction or Rehabilitation Period Disbursement. The Department shall:

- (1) Conduct regular on-site inspections of the construction or rehabilitation; and

(2) Make loan disbursements on the basis of work in place plus materials acceptably stored on site, less a retention of 10 percent or any other amount required by the loan documents.

E. Disbursement. Loan funds shall be held by the Department and disbursed in accordance with a draw schedule approved by the Department before initial closing. The draw schedule, which may be revised at the discretion of the Department during construction, shall be based upon completion of specified items or a percentage of rehabilitation work. Payment of draws shall be requested by the sponsor and approved by the Department based on completed work. Loan funds may be withheld if there is any arrearage of interest payments or escrows required by the loan documents.

F. Final Closing. A final closing of the loan shall be arranged after completion of the rehabilitation or construction and cost certification, if required, according to the procedures and documentation required by the Department.

.28 Signs.

If requested by the Department, each sponsor shall install a sign identifying the Department as a lender on the project. The sign, at the discretion of the Department, may be supplied by the Department, but in any case shall comply with the design specifications of the Department. The sponsor shall bear all costs of acquisition, delivery, and installation of a conforming sign, which costs may be included in the loan.

.29 Books and Accounts.

A. Sponsors, contractors, and subcontractors shall maintain the books, accounts, and records, and shall file with the Department the financial and other reports that the Department may from time to time require.

B. The books, accounts, and records in §A of this regulation shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.

C. Books, accounts, and records of sponsors shall be maintained and made available for inspection for three years past the date of termination of the contractual relationship between the sponsor and the Department. Books, accounts, and records of contractors and subcontractors shall be maintained and made available for inspection for three years past the date of termination of the contractual relationships between them and the sponsor.

.30 Certification of Income.

A. Income-restricted projects are subject to the requirements set forth in §§B—F of this regulation.

B. The sponsor shall obtain signed certificates of annual income from all tenants occupying a project and shall certify annual incomes of all tenants to the Department. The Department may require annual re-certifications of income as well as periodic occupancy reports containing the information required by the Department. Leases and certifications are subject to periodic review by the Department.

C. For projects where existing tenants continue in occupancy during rehabilitation, the sponsor shall obtain signed income certifications from income-eligible tenants of at least the number of units required by Regulation .12 of this chapter, before loan closing.

D. The purpose of the certification of annual income and the reports is to assure compliance with the upper income limits established in accordance with the Act and Regulation .11 of this chapter. In the case of a project which receives federal assistance, including low income housing tax credits, the procedures for the certification of income prescribed by the federal agency are acceptable, including recertification waivers under §42(g)(8)(B) of the Internal Revenue Code.

E. The sponsor shall verify the information contained in the certificate of income, upon the consent of the individual, with the source of income, and file with the Department a report disclosing the income of all individuals selected for occupancy unless the sponsor obtained a waiver under the federal low income housing tax credit program, as provided in §1.42-5 of the Federal Income Tax Regulations.

F. The sponsor shall retain all certificates of income and documents verifying the information contained in them for a period of at least three years from the date on which the income certification is submitted to the sponsor.

.32 Nondiscrimination.

A. A sponsor or contractor may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project or undertaking financed or assisted under the Program, or in any aspect of employment by any sponsor, developer, or contractor in the construction, repair, or maintenance of any property financed or assisted under the Program.

B. A sponsor or contractor shall comply with all applicable federal, State, and local laws and Departmental policies and programs regarding discrimination, equal opportunity in employment, housing, and credit practices, and drug and alcohol free workplaces, including:

- (1) Title VI and VII of the Civil Rights Act of 1964, as amended;
- (2) Title VIII of the Civil Rights Act of 1968, as amended;
- (3) The Fair Housing Amendments Act of 1988, as amended;
- (4) The Department's Minority Business Enterprise Program, as amended;

(5) Executive Order 01.01.1989.18 relating to Drug and Alcohol Free Workplaces, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order;

(6) Title 20 of the State Government Article, Annotated Code of Maryland, as amended; and

(7) The Americans with Disabilities Act of 1990, as amended.

C. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties.

.33 Affirmative Fair Housing Marketing Plan.

Each project shall submit for review and approval by the Department an affirmative fair housing marketing plan in accordance with the requirements of the Program Guide. The Department shall monitor the project's compliance with the approved plan.

.34 False Statements.

A sponsor who knowingly makes or causes to be made a false statement or report, whether in the nature of an understatement or overstatement of financial condition or any other fact material to the Department's action, is subject to immediate acceleration of the loan, in addition to the criminal penalties authorized by §4-411 of the Act.

.35 Waiver and Delegation.

A. Waiver. The Secretary may waive or vary particular provisions of these regulations to the extent that the waiver is consistent with the Act, if:

(1) In the determination of the Secretary, the application of a regulation in a specific case, or in an emergency situation, would be inequitable or contrary to the purposes of the Act; or

(2) Conformance to the requirements of any federal, State, or local agency in connection with any federal, State, or local assistance sought necessitates waiver or variance of a regulation.

B. Delegation. The Secretary may delegate to the Director, the Program Director or any other official or employee of the Department the authority to execute or approve any loan documents, including loan commitments and early start letters, after approval of a loan by the Secretary.

Subtitle 05 RENTAL HOUSING PROGRAMS

Chapter 02 [Multi-Family Housing Revenue Bond Financing Program] *Multifamily Bond Program*

Authority: Housing and Community Development Article, §2-111 and Title 4, Subtitle 2; State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

.01 (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Administration" means the Community Development Administration, [an agency in] *a unit of* the Division of Development Finance of the Department of Housing and Community Development.

(3) – (9) (text unchanged)

[(10) "Families of limited income" means families or persons whose annual incomes do not exceed upper income limits established by the Secretary in accordance with Regulation .04B of this chapter.]

[(11)] (10) (text unchanged)

(11) *Household.*

(a) "*Household*" means one or more individuals who occupy the same residential dwelling unit as their permanent residence.

(b) "*Household*" includes a family as defined in 24 CFR §5.403, as amended.

(12) "*Household of limited income*" means a household whose total household annual income does not exceed the upper income limits established by the Secretary in accordance with Section 4-212 of the Act and Regulation .04B of this chapter.

[(12)] (13) – [(16)] (17) (text unchanged)

(18) "*Program Guide*" means the *Multifamily Rental Financing Program Guide* adopted by the Department, as amended from time to time.

[(17)] (19) -- [(23)] (25) (text unchanged)

.03 (text unchanged)

.04 Eligible Projects.

A. (text unchanged)

B. Establishment of Limits.

(1) The Secretary shall establish upper income limits for [families] *households* of limited income taking into consideration factors including:

(a) The amount of the total annual income of the [families] *households* available for housing needs;

(b) The size of the [family] *household*;

(c) (text unchanged)

(d) The ability of the [families] *households* to compete successfully in the normal private housing market; and

(e) (text unchanged)

(2) Limits may be established by [family] *household* size. Limits also may be established from time to time on a regional basis. Income eligibility criteria, within limits lower than the regional limits, may be established for particular projects.

C. – G. (text unchanged)

.05 (text unchanged)

.06 Loan Terms and Requirements — General.

A.—D. (text unchanged)

E. Local [Government Approval] *Governments*.

[(1) Except for loans for home improvement projects which contain four or fewer dwelling units, a loan may not be closed or funded until the Administration has received a certified copy of an approving ordinance or resolution, duly adopted by the legislative body of the municipality or county in which the project is located (or the Board of Estimates in Baltimore City). If the project is located in a municipal corporation, the approval shall be from the municipal corporation, and not the county. The ordinance or resolution may be in any form as long as it contains the following information:

(a) Identity of the sponsor;

(b) Location and nature of the project; and

(c) Acknowledgment of the fact that the Administration will finance the project.

(2) In addition, before the loan closing, the county executive of a chartered county, or the mayor of a municipality (if the mayor is not a member of the city council) shall give approval of the loan. This approval may be made by endorsement of the ordinance or resolution, or by separate writing.

(3) Obtaining local approval is the responsibility of the sponsor.]

(1) For each project for which an application is received under this chapter, the Department shall provide written notice and reasonable opportunity to comment on the project to the chief executive officer or the equivalent officer and the head or president of the legislative body of the political subdivision in which the proposed project is located.

(2) If a proposed project is in a municipal corporation, the notice required under §E(1) of this regulation shall be sent to the chief executive officer and the head or president of the legislative body of the municipal corporation, not the surrounding county.

(3) The notice provided under §E(1) of this regulation shall contain the following information about the proposed project:

(a) Date of application;

(b) Name and description of project;

(c) Address of project;

(d) Sponsor of the project and sponsor's contact information;

(e) Amount of funding requested;

(f) amount type and provider of other sources of funding;

(g) Total number of units;

(h) Number of units reserved for households of limited income, including the income and rent limits; and

(i) Such other information as the Department deems relevant.

F. - P. (text unchanged)

.07 (text unchanged)

.08 Application Processing Procedures.

A. (text unchanged)

B. [Eligibility Notification.] *Review of Applications*. Each application shall be subject to an initial review to make a preliminary assessment of the eligibility of the sponsor and the project in accordance with Regulations .03 and .04 and in accordance with the *Program Guide*. The Administration shall notify the sponsor in writing upon completion of its assessment of eligibility.

C. – E. (text unchanged)

F. Reconsideration. Sponsors may request reconsideration of a rejection in accordance with the procedures contained in the [program guide] *Program Guide*. An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR [05.01.02.] 05.01.01.

.09-.10 (text unchanged)

.11 Fees; Program [Guidelines] Guide.

A. Amounts and time of payment of application fees, construction financing fees, permanent loan commitment fees, nonusage bond issuance fees, and other fees as may be required by the Administration shall be as provided in a fee schedule set forth in *the Program Guide* [and revised from time to time by the Administration].

B. The Administration [may] *shall* establish [from time to time detailed program guidelines containing] underwriting standards, loan processing requirements, and other requirements or matters relating to the financing of mortgage loans or to the program in *the Program Guide*.

C. Copies of the fee schedule and [guidelines] *Program Guide* shall be available for examination at the Administration's principal office. The Administration shall make copies available to the public upon request.

.12-.13 (text unchanged)

.14 Nondiscrimination Requirements.

A. [Discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical or mental handicap, or age [(except for projects for elderly persons which are in compliance with the Fair Housing Act Amendments of 1988) may not exist in selling, leasing, or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project or undertaking financed or assisted in whole or part under the Act, or in any aspect of employment by any sponsor or contractor in the construction, repair, or maintenance of any property financed or assisted in whole or in part under the Act.] *A sponsor or contractor may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project or undertaking financed or assisted under the program, or in any aspect of employment by any sponsor, developer, or contractor in the construction, repair, or maintenance of any property financed or assisted under the program.*

B. [Each sponsor shall comply with] *A sponsor or contractor shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination, equal opportunity in employment, housing, and credit practices, and drug and alcohol free workplaces, including:*

- (1) Titles VI and VII of the Civil Rights Act of 1964, as amended[, and];
- (2) Title VIII of the Civil Rights Act of 1968, as amended;
- [(2) Article 49B,] (3) *The Fair Housing Amendments Act of 1988, as amended;*
- (4) *Title 20 of the State Government Article, Annotated Code of Maryland, as amended;*
- [(3)](5) *The Department's Minority Business Enterprise Program, as amended; [and]*
- (6) *The Americans with Disabilities Act of 1990, as amended; and*
- [(4)](7) *Executive Order 01.01.1989.18 relating to Drug and Alcohol Free Workplaces, and any*

[Departmental] *Department or State regulations adopted or to be adopted to carry out the requirements of that Order.*

C. (text unchanged)

.15-.16 (text unchanged)

.17 Affirmative Fair Housing Marketing Plan.

Each project shall submit for review and approval by the Administration an affirmative fair housing marketing plan in accordance with the requirements of the Program Guide. The Administration shall monitor the project's compliance with the approved plan.

Subtitle 05 RENTAL HOUSING PROGRAMS

Chapter 05 Partnership Rental Housing Program

Authority: Housing and Community Development Article, Title 4, Subtitle 12; State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

.01 (text unchanged)

.02 Objective.

A. The objective of the Program is to provide financing for all or a portion of the development costs of rental housing that will be occupied by [lower-income] households *of lower income* and is either:

(1) Owned, or to be owned, by local governments, or local government entities, for which the applicable local government provides a site *or funds to acquire a site* and any necessary off-site improvements; or

(2) Owned by private sector entities and is occupied by [lower-income] households of lower income that include one or more individuals with disabilities or special needs.

B. The Program intends to provide financing to projects that:

(1) (text unchanged)

(2) Can be maintained economically as rental housing for [lower-income] households of lower income in perpetuity if the sponsor so wishes.

C. (text unchanged)

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Administration" means the Community Development Administration, a unit of the Division of Development Finance of the Department.

[(2)] (3) – [(5)] (6) (text unchanged)

[(6)] (7) Department.

(a) "Department" means the Department of Housing and Community Development, a principal department of the State.

(b) "Department" includes the Administration.

[(7)] (8) (text unchanged)

[(8)] (9) "Elderly household" means: [a lower-income household in which at least one member is 55 years old or older and that meets the age limits specified by the Secretary, which may vary for different programs or types of projects.]

(a) One or more individuals who occupy the same residential dwelling unit, at least one of whom is 62 years old or older;

(b) For projects which also receive funding through one or more programs administered by HUD, an elderly family, elderly household or elderly person, as defined by HUD; or

(c) Such other definition established by the Secretary pursuant to Section 4-101 of the Act.

[(9)] (10) (text unchanged)

[(10)] (11) Household.

(a) "Household" means [an individual or group of] one or more individuals who[:] occupy the same residential dwelling unit as their permanent residence.

[(a)] Occupy or intend to occupy a residential rental unit in a project; and

(b) Have resources sufficient to pay the applicable rent through employment income, pensions, other income, or assistance.]

(b) "Household" includes a family as defined in 24 CFR §5.403, as amended.

(12) Household of lower income.

(a) "Household of lower income" means a household whose annual income, upon initial occupancy, does not exceed 50 percent of the Statewide median income for a household of similar size or such lesser income level as may be established by the Secretary for any particular project or for partnership units to be occupied by one or more individuals with disabilities or special needs.

(b) "Household of lower income", for the purpose of continuing occupancy, includes a household whose annual income does not exceed an income level that the Secretary establishes or any applicable federal requirement.

[(11)] (13) - [(14)] (16) (text unchanged)

[(15)] Lower-Income Household.

(a) "Lower-income household" means a household whose annual income, upon initial occupancy, does not exceed 50 percent of the Statewide median income for a household of similar size or such lesser income level as may be established by the Secretary for any particular project or for partnership units to be occupied by one or more individuals with disabilities or special needs.

(b) "Lower-income household", for the purpose of continuing occupancy, includes a household whose annual income does not exceed an income level that the Secretary establishes or any applicable federal requirement.]

[(16)] (17) - [(19)] (20) (text unchanged)

[(20)] (21) "Project" means any undertaking for the acquisition, construction, or rehabilitation of land, buildings, and improvements, or any portion thereof, financed by the Program, that will be used for rental housing to be occupied entirely by [lower-income] households of lower income, except for any units occupied by management personnel.

[(21)] (22) – [(23)] (24)

[(24)] (25) "Sponsor" means all of the following:

(a) – (b) (text unchanged)

(c) Any person or entity that has an ownership interest in, or identity of interest with, a person or entity under §B[(24)](25)(a) or (b) of this regulation; and

(d) An applicant that develops a project and qualifies under §B[(24)](25)(a), (b), or (c) of this regulation.

(26) "Treasurer" means the Maryland State Treasurer.

.04 Eligible Borrowers—Local Governments and Local Government Entities.

A. – D. (text unchanged)

E. The local government or local government entity shall own the project. [A project that is owned by a local government entity shall be funded out of one of the following:

- (1) Moneys appropriated by the State to the Program;
- (2) 5 percent of the proceeds of general obligation bonds that may be used by private entities; or
- (3) Any proceeds of general obligation bonds if approved by bond counsel.]

F. (text unchanged)

.05 Eligible Borrowers—Private Sector Entities.

A. If a project is owned by a private sector entity, the entity shall meet the following requirements to qualify for capital assistance:

(1) – (4) (text unchanged)

(5) Agree in writing to rent all partnership units to [lower-income] households *of lower income that include* [including] one or more individuals with disabilities or special needs.

B. (text unchanged)

.06 Management.

A. (text unchanged)

B. The management contract:

(1) (text unchanged)

(2) If the capital assistance is funded from the proceeds of tax-exempt revenue bonds, shall have a duration not greater than 1 year, *unless a longer term is approved by counsel to the Treasurer*, and shall contain such other provisions necessary to ensure the tax-exempt status of the bonds; and

(3) May be renewed at 1-year intervals, *or such longer intervals as approved by counsel to the Treasurer*, at the option of the parties.

C. (text unchanged)

.07 Eligible Uses.

A. Program funds may be used to provide capital assistance for financing development costs, including:

[(1) Acquisition of buildings, but not land, if the sponsor is a local government or local government entity;]

[(2)] (1) Acquisition of buildings and land, [if the sponsor is a private sector entity] *provided, if the sponsor is a local government or local government entity, it has met the local contribution requirements of Regulation .17 of this chapter;*

[(3)] (2) – [(11)] (10) (text unchanged)

B. – C. (text unchanged)

D. If a capital assistance from the program loan is funded with the proceeds of general obligation bonds issued by the State of Maryland, additional limitations on eligible uses may be applicable.

.08 Project Eligibility.

A. – C. (text unchanged)

D. Occupancy Limitation.

(1) Throughout the term of the capital assistance financing, all of the residential rental units in a project that are financed with the capital assistance, other than units occupied by management personnel, shall be:

(a) Occupied by [lower-income] households *of lower income*; or

(b) If the project is owned by a private sector entity, occupied by [lower-income] households *of lower income* [including] *that include* one or more individuals with disabilities or special needs.

(2) A household whose annual income after initial occupancy exceeds the income limit set by the Secretary for continuing occupancy for [lower-income] households *of lower income* shall be given notice requiring it to vacate on or before that date which is 24 months after the date of the notice. The sponsor or its management agent shall deliver the required notice within 2 months of the date of the certification showing that the annual income of the household exceeded the income limit for continuing occupancy for [lower-income] households *of lower income*.

(3) (text unchanged)

(4) Partial Financing.

(a) If capital assistance is used to partially finance a project, there shall be a minimum number of partnership units, other than units occupied by management personnel, that shall be occupied by [lower-income] households *of lower income* throughout the term of the capital assistance financing.

(b) Except as provided in §D(4)(c) of this regulation, the minimum number of partnership units shall be [the greater of the:

(i) Amount] *equal to the amount* of the loan divided by [the total cost of the undertaking multiplied by the total number of rental units in the undertaking; or

(ii) Number of residential units selected by the sponsor to satisfy the federal requirements for projects that receive an allocation of federal low-income housing tax credits] \$75,000 or such other per unit cap as may be established by the Secretary.

(c) For capital assistance to private sector entities for rental housing for households that include one or more individuals with *disabilities* or special needs, the minimum number of partnership units shall be as set by the Program.

(d) (text unchanged)

(e) Only those households that reside in partnership units in a project are [required to contribute services to enhance and maintain the project or the community] *subject to the tenant participation requirements* as provided under Regulation .18 of this chapter.

(f) The sponsor shall provide equal access [to] *for all* tenants [in the partnership units] to any amenities and common areas in a project that [also includes nonpartnership units] *is partially funded with capital assistance from the Program.*

(g) - (j) (text unchanged)

.09 - .11 (text unchanged)

.12 Terms and Conditions—Repayment.

A. Conditional Repayment Obligation. [A] *Except as provided in section B of this regulation, a repayment* of principal or interest on the capital assistance is not required unless the project ceases to be owned by the sponsor or operated in accordance with the requirements of the Act and this chapter and the terms and conditions of the capital assistance documents.

B. *If necessary to comply with, or receive the benefit of, federal or other financial assistance, capital assistance provided under the program may be made available as a deferred payment loan repayable on the later of:*

(1) *The sale of the project;*

(2) *The failure of the sponsor to operate the project for the benefit of households of lower income in accordance with the agreements between the Department and the local government; or*

(3) *A maturity date set by the Department.*

[B]C. Amounts Due upon Sale of Project.

(1) If a project or any interest in it is sold or transferred by the sponsor, other than to a local government or local government entity in accordance with Regulations .09 and .10 of this chapter, *or to another eligible borrower approved by the Department*, the sponsor shall pay to the Department the principal amount of the financing, plus *simple interest, if any, at the rate set forth in the capital assistance documents* [one of the following:

(a) If the financing was made with State general obligation bond proceeds, an amount equal to the amount of interest paid by the State, together with the costs of redemption, on the State bonds allocable to the project; or

(b) If the financing was made with general funds appropriated to the Program or special funds, simple interest at a rate specified in the capital assistance documents].

(2) The capital assistance documents [shall] *may* require that the sponsor or the Department [shall] apply any proceeds of the sale of a project *or any other loan repayment funds* plus all sums held in any project accounts to the housing needs of low-income and moderate-income persons.

[C] D. Amounts Due upon Default.

(1) In the event of default, the Department has the right to accelerate the indebtedness, and the amounts set forth in § [B]C(1) [and (2)] of this regulation shall then be due and payable by the owner.

(2) – (4) (text unchanged)

[D] E. Voluntary Repayment. A sponsor may voluntarily repay Program financial assistance at any time if the sponsor complies with the following requirements:

(1) If the financing was made with State bond proceeds, provides the Department with an opinion of bond counsel, *prior to or simultaneously with the voluntary prepayment*, that the prepayment does not adversely affect the interest of the bondholders under the pertinent State bonds and the State's bond counsel for the bonds agrees;

(2) *Provides written notice to each tenant residing in the project which describes the impact of the prepayment on the tenant and, if applicable, any assistance to which the tenant is entitled;*

[(2)] (3) *Provides notice of the prepayment to the Department, the political subdivision, if not an owner of the project, the local public housing authority, if any and if not an owner of the project, and any parties registered with the Department;*

(4) *Offer a right of first purchase to the Department, the political subdivision, if not an owner of the project, the local public housing authority, if any and if not an owner of the project, and any interested parties registered with the Department;*

[(3) Provides to each tenant residing in the project written notice that describes the impact of the prepayment on the tenant and, if applicable, any assistance to which the tenant is entitled;]

[(4)] (5) *Provides a lease extension for at least 1 year following the notice of the prospective [repayment] prepayment action to each tenant residing in an assisted unit;*

[(5)] (6) *Makes relocation assistance payments to each tenant [of:*

(a) A minimum of \$475; and

(b) Upon documentation of all expenses, up to an additional \$475;] *in an amount determined by the Department.*

[(6)] (7) Provides 3-year lease extensions or payments equal to 3 months rent to 20 percent of the tenants who live in assisted units and qualify as senior citizens, handicapped, or [families] *households* with minors; and

[(7)] (8) Complies with any procedural requirements of the Department with respect to *the right of first purchase*, the relocation *payments* and lease extensions.

.13 Terms and Conditions—General.

A. - D. (text unchanged)

E. Rental Period. For the entire period during which the capital assistance, or any part of it, is outstanding, the partnership units shall be maintained:

(1) If the project is owned by a local government *or local government entity*, as rental housing for [lower-income] households *of lower income*; or

(2) If the project is owned by a private sector entity, as housing for [lower-income] households *of lower income* that include one or more individuals with disabilities or special needs.

F. (text unchanged)

.14 Terms and Conditions — Property, Liability, and Other Insurance.

A. – B. (text unchanged)

C. In addition to the requirements of §[A]B of this regulation, owner's liability insurance shall:

(1) – (2) (text unchanged)

D. In addition to the requirements of §[A]B of this regulation, contractor's liability and contractor's builder's risk insurance shall:

(1) – (2) (text unchanged)

E. In addition to the requirements of §[A]B of this regulation, owner's property or hazard insurance shall:

(1) – (2) (text unchanged)

F. (text unchanged)

.15 (text unchanged)

.16 Capital Assistance Documents.

The Department shall prescribe or approve the form and content of all documents, which may include a note, deed of trust, regulatory agreement, and other instruments that the Department may require to evidence or secure the [loan] *capital assistance* or enforce the requirements of the Act and this chapter.

.17 (text unchanged)

.18 Tenant Participation.

A. - B. (text unchanged)

C. *Tenant participation shall not be required in connection with capital assistance where:*

(1) Private sector entities [that] receive financial assistance to provide rental housing for individuals with disabilities or special needs [are not required to provide a tenant services plan and tenants of those units are not required to contribute services.]; *or*

(2) *Such a requirement is prohibited by a federal program applicable to the project.*

.19 - .23 (text unchanged)

.24 Nondiscrimination.

A. [A sponsor may not discriminate on the basis of age, except with respect to residents in elderly projects, race, color, religion, national origin, sex, marital status, sexual orientation or physical or mental handicap in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project financed or assisted under the Program, or in any aspect of employment by any sponsor, developer, or contractor in the construction, reconstruction, and substantial rehabilitation of any project financed under the Program.] *A sponsor or contractor may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project or undertaking financed or assisted under the program, or in any aspect of employment by any sponsor, developer, or contractor in the construction, repair, or maintenance of any property financed or assisted under the program.*

B. Each sponsor[,] or contractor[, and subcontractor] shall comply with all applicable federal, State, and local laws and [Departmental] *Department* policies and programs regarding discrimination and equal opportunity in employment, housing, and credit practices, *and drug and alcohol free workplaces*, including:

(1) Titles VI and VII of the Civil Rights Act of 1964, as amended[, and];

(2) Title VIII of the Civil Rights Act of 1968, as amended;

(3) [, including the] *The Fair Housing Act Amendments of 1988, as amended*;
[(2)] (4) [Article 49B,] *Title 20 of the State Government Article, Annotated Code of Maryland, as amended*;
[(3)] (5) *The Americans with Disabilities Act of 1990, as amended*;
[(4)] (6) *The Department's Minority Business Enterprise Program, as amended, if the local government does not have its own minority business participation program that is acceptable to the Department; and*
[(5)] (7) *Executive Order 01.01.1989.18, relating to drug and alcohol free workplaces, and any [Departmental] Department or State regulations adopted or to be adopted to carry out the requirements of that order.*
C. (text unchanged)

.25 - .29 (text unchanged)