

RESOLUTION 76-54

RESOLUTION ADOPTING REGULATIONS GOVERNING
SINGLE FAMILY MORTGAGE PURCHASE PROGRAM

WHEREAS, the California Housing Finance Agency has duly noticed and conducted a public hearing on the proposed regulations for the implementation of its single family mortgage purchase program, and has published, mailed and delivered appropriate notices and summaries of such regulations, as required by law; and

WHEREAS, the Board of Directors has considered all relevant written materials submitted to the California Housing Finance Agency by any party, as comments on or criticisms of such proposed regulations; and

WHEREAS, the Board of Directors of the California Housing Finance Agency has determined that the regulations in the form attached hereto are necessary and appropriate for adoption by CHFA in order to implement the single family mortgage purchase program of this Agency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the California Housing Finance Agency, as follows:

1. That the attached regulations governing the single family mortgage purchase program are hereby adopted.
2. The staff of CHFA is hereby directed to cause the regulations to be filed with the Secretary of State, the Office of Administrative Hearings, and such other persons and agencies as required by law.

I hereby certify that this is a true and correct copy of Resolution 76-54 adopted at a duly constituted meeting of the Board of Directors of the California Housing Finance Agency held on October 27-28, 1976

Attest


Stuart Honse

Secretary

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING
OCT 27 1976
Office of Administrative Hearings
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Office of Administrative Hearings

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

CALIFORNIA HOUSING FINANCE AGENCY
(Agency)

Date of adoption, amendment, or repeal:

October 27, 1976

By *[Signature]*

Chairperson and Acting President
(Title)

ENDORSED
FILED
In the office of the Secretary of State
of the State of California
NOV 6 - 1976
At 3:50 o'clock P.M.
RICHARD FORBES, Secretary of State

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ORDER ADOPTING REGULATIONS

OF THE

CALIFORNIA HOUSING FINANCE AGENCY

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Division 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Section 41385(e) of the Health and Safety Code, and to implement and interpret the provisions of Part 3 (commencing with Section 41300) of the Health and Safety Code, particularly Sections 41044, 41048, 41056, 41057, 41336, 41390, 41390.5, 41391, 41392, 41396, 41401, 41402, and 41404. of the Health and Safety Code, the California Housing Finance Agency hereby adopts its regulations in Title 25, Chapter 3, California Administrative Code as follows:

Adopt new Chapter 3 (Sections 12001 through 12607; not consecutive) to read:

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(Pursuant to Government Code Section 11390.1)

Title 25. Housing and Community Development
Part II. California Housing Finance Agency
Chapter 3. Single Family Mortgage Purchase Program.

Article 1. General

12001. Authority and Purpose. This chapter is adopted pursuant to Section 41385(e) of the Health and Safety Code in order to implement and interpret the provisions of Part 3 (commencing with Section 41300 of the Health and Safety Code).

12002. Definitions. (a) Any term expressly defined in Chapter 2 (commencing with Section 41020) of Division 31, Part 1 of the Health and Safety Code shall have the same meaning when used in this chapter as is given to it by said Chapter of the Health and Safety Code unless further or otherwise defined hereafter in this chapter.

(b) As used in this chapter unless otherwise indicated by the context:

"Agency" means the California Housing Finance Agency.

"Bonds" means bonds authenticated and delivered under the General Bond Resolution.

"Code" means the Health and Safety Code as amended or supplemented from time to time.

"Displaced Family" means an Eligible Person or Family displaced from an urban renewal area, or as a result of governmental action, or as a result of a disaster determined by the President of the United States to be a major disaster.

"Eligible Persons and Families" means persons and families whose annual income in combination with their savings and assets do not exceed the limitations established pursuant to this chapter.

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

"General Bond Resolution" means a general bond resolution authorizing the issuance of bonds for the purpose of providing funds for the purchase of mortgages secured by the Single Family Residential Structures.

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(Pursuant to Government Code Section 11380.1)

"Large Family" means a family with five or more persons.

"Large Family Residential Structure" means a Single Family Residential Structure which includes at least one dwelling unit with more than three bedrooms.

"Mortgage Loan" means a mortgage, deed of trust or other instrument which is a lien on real property together with a note evidencing a long-term loan of money made for the permanent financing of residential real property.

"Mortgage Lender" means a mortgage lender certified, pursuant to this chapter, to do business with the Agency.

"Mortgage Purchase Agreement" means an agreement to purchase mortgages under the provisions of this chapter.

"Mortgagor" means the original borrower under a Mortgage and his heirs, executors, administrators and assigns.

"Multi-Unit Subsidized Residential Structure" means a Single Family Residential Structure of two, three or four dwelling units, at least one of which units will be initially occupied by a household receiving rental assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended.

"Neighborhood Preservation Area" means those areas designated as participating rehabilitation areas pursuant to Chapter 6 of the Act.

"Newly Constructed Residential Structure" means any new Single Family Residential Structure on which foundation work commenced no earlier than August 1, 1976.

"Program" means the Agency's program pursuant to this chapter and the General Bond Resolution of purchasing Mortgage Loans which have been made to Eligible Persons and Families, or the purchasing of other Mortgage Loans upon obtaining a covenant from the seller of such Mortgage Loan that he will use the proceeds of such sale to make Mortgage Loans to such Eligible Persons and Families.

"Rehabilitated Residential Structure" means any Single Family Residential Structure in existence before August 1, 1976, which was moved to a new site or on which repair work commenced no earlier than August 1, 1976, and on which total improvements have been made to the property since that date at a cost (excluding the cost of moving the structure) of no less than 25% of the appraised value of the property at the time the loan is made.

"Seller" means a Mortgage Lender which has entered into a Mortgage Purchase Agreement.

"Servicer" means a Mortgage Lender which has entered into a Servicing Agreement and the assignee of such a Mortgage Lender.

"Servicing Agreement" means an agreement to service mortgages purchased pursuant to this chapter.

"Single Family Residential Structure" means residential real property, to be financed pursuant to the Program, consisting of not more than four family dwelling units, one of which shall be occupied as the primary residence of the Mortgagor, and also includes any individual family dwelling unit subject to a condominium regime or similar arrangement and the undivided interest, if any, in common areas and facilities.

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"State" means the State of California.

"VA" means the Veterans Administration of the United States of America.

12003. Evidence of Determination. Any determination required be made under this chapter may be evidenced by the execution by the Chairperson of the Agency of a Mortgage Purchase Agreement containing provisions implementing such determination.

12004. Delegation. Any act required or permitted by this chapter to be performed by any particular official of the Agency may be performed by an individual designated in writing by the official.

Article 2. Allocation of Funds

12100. Allocation of Funds. The Agency shall allocate funds expected to be available for the purchase of Mortgages based on information reasonably available to the Agency showing that the location of the housing being financed is consistent with the Agency's policies of dispersing the Single Family Residential Structures. In making allocations, the Agency may also take into consideration other factors such as the anticipated ability of the Mortgage Lender to make timely delivery of the dollar amount of Mortgage Loans for which the Mortgage Lender is committed and the anticipated ability of the Mortgage Lender to assist the Agency in maximizing the public benefit of the Program.

12101. Market Interest. The Chairperson of the Agency shall determine monthly, during any period in which the Agency is purchasing Mortgage Loans, on a county-by-county basis, the lowest interest rate generally available in each county in the private market for new Single Family Housing and for loans on existing housing. Such determinations shall be based upon a poll of at least two statewide savings and loan associations and at least two statewide banks.

Article 3. Qualified Mortgage Lender

12200. Certification of Mortgage Lenders. When an application has been accepted by the Agency from a Mortgage Lender meeting the requirements set out in Section 12201, he shall be thereupon certified as a qualified mortgage lender until decertified pursuant to the code.

12201. Requirements. Each Mortgage Lender must:
(a) be an approved FHA or VA Mortgagee;
(b) be an approved Seller and Servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;
(c) undertake to originate, process, close, and service all loans delivered;

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(d) have been actively engaged at the time of application in the business of originating and servicing single-family residential mortgage loans during the previous three years; and

(e) warrant that the amount of the offer made by the application does not exceed the lesser of ten per centum (10%) of the largest dollar volume of loans originated by such Lender during one of the last three years or ten per centum (10%) of the outstanding principal amount of mortgages which such Mortgage Lender is currently Servicing.

12202. Certification of Public Entities as Mortgage Lenders. Any governmental agency which is a mortgage lender and any housing authority (collectively, "public entities"), may be certified by the Agency as qualified to do business with the Agency for purposes of participating, in the capacity of a Mortgage Lender, in the financing of a rental housing development, if said public entity:

(a) if a housing authority, is capable of financing the construction or rehabilitation of rental housing developments, or if any other governmental agency, is capable of providing service or otherwise aiding in the financing of construction loans and mortgage loans for rental housing developments;

(b) has been duly created and validly exists;

(c) has been validly in existence for a period of not less than five years prior to its application for certification;

(d) is otherwise authorized by law to serve in said capacity;

(e) has not defaulted on any of its financial obligations for a period of three years prior to its application for certification.

12203. Applicability of Certain Provisions. Article 1, Article 6, Sections 12600, 12601, 12602 and 12603 of Article 7 and Section 12202 and this Section 12203 of this Article 3 of this Chapter shall apply to any transaction in which a public entity participates as a Mortgage Lender certified pursuant to Section 12202, provided that with respect to such application, any provision adopted by reference to FHA or VA procedures, practices, standards, conditions or requirements shall not apply, and provided that with respect to such application the following terms shall have the following definitions:

(a) "Mortgage" or "Mortgage Loan" means a mortgage, deed of trust or other instrument which is a lien on a rental housing development, together with a note evidencing a loan of money made for the construction, rehabilitation or permanent financing of said rental housing development;

(b) "General Bond Resolution" means a general bond or note resolution authorizing the issuance of bonds or notes for the purpose of providing funds for the financing of rental housing developments;

(c) "Rental housing development" means "rental housing development" as defined in Section 11002 of Chapter 2 of this Part;

(d) "Servicer" means said Mortgage Lender;

(e) "Seller" means said Mortgage Lender;

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(f) "Mortgagor" means the housing sponsor of a rental housing development; and

(g) "Mortgage Purchase Agreement" means a written agreement between the Agency and the Mortgage Lender providing for the funding of the transaction.

Articles and Sections of this Chapter other than those listed above shall not apply to such a transaction.

Article 4. Eligible Mortgagors

12300. Eligible Mortgagors. Each Mortgagor shall:

(a) be the owner of the mortgaged premises; and occupy one unit of such premises as his primary residence;

(b) be an Eligible Person or Family;

(c) shall not have previously received any financial assistance under the code for purchase of other real property unless such other property was sold or transferred for good cause as determined by the Chairperson;

(d) shall not have previously held an interest (other than a lessee's interest) in the mortgaged premises.

12301. Eligible Persons and Families -- Income Limitations.

To be an Eligible Person or Family such person or family shall not have an income greater than one hundred twenty per centum (120%) of the median income in the county where the Single Family Residential Structure is located as such median income is established from time to time by the Department of Housing and Urban Development. Such maximum income limitation shall apply to an adjusted income which is gross income minus five per centum (5%) thereof and shall be adjusted for the number of individuals in the household.

12302. Eligible Persons and Families -- Asset Limitations.

No eligible person or family shall have net assets (after deducting the lesser of the down payment or \$3,750) greater than (1) \$8,000 if such person or head of household is 62 or older, or (2) \$3,000 if such person or head of household is less than 62, excluding from assets automobiles and other household and personal effects not readily convertible into cash, and the cash value of any pension plans, retirement programs, and/or life insurance policies

Article 5. Eligible Mortgages and Single Family Residential Structures

12400. Mortgaged Premises. (a) The mortgaged premises shall constitute a Single Family Residential Structure, one unit of which shall be occupied by the owner thereof as his principal residence, and shall be situated in the state and held in fee simple.

(b) Mortgaged premises which are not newly constructed or recently rehabilitated must be certified by local code enforcement agency or the Department of Housing and Community Development to be in good condition.

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12401. Maximum Sales Price and Loan Amount. The maximum sales price (which shall not exceed appraised value) and loan amount with respect to any Single Family Residential Structure which is the subject of a Mortgage shall not exceed:

<u>Number of Dwelling Units</u>	<u>Sales Price</u>	<u>Loan Amount</u>
1	\$45,000	\$41,250
2	48,750	45,650
3	52,500	48,650
4	56,000	51,450

12402. Insurance or Guarantee of Mortgages. In order to insure the economic feasibility of housing developments, to insure that housing developments have sufficient access to supporting social services, transportation, schools, employment and retail merchants, and to insure that the Mortgaged Premises have been subjected to appraisals by competent and experienced appraisers, each Mortgage purchased by the Agency pursuant to the Program shall be insured by the FHA pursuant to Section 203(b), 221(d)(2), 222, or 234 of the National Housing Act, or guaranteed by the VA, such insurance or guarantee to be in full force and effect within sixty days from the date such Mortgage is purchased.

12403. Interest on Mortgages. Mortgages shall bear interest at such rate as the Agency shall determine will provide for paying administrative costs of the Agency and servicing the Bonds, which rate, in the case of any Mortgage Loan which has been made to an Eligible Person or Family, shall be at a rate below Market Interest. The Agency waives the requirement of Section 41402(f) of the Code finding that such requirement must be waived to permit participation in the purchase of Mortgages pursuant to the Program and that such provision would interfere with the financial structuring and the administration of the financial program contemplated by the Bonds.

Article 6. Mortgage Purchase Agreement
and Servicing Agreements

12600. Provisions of Mortgage Purchase Agreements. The Agency shall purchase all Mortgages pursuant to a written agreement with the Seller thereof. Each Mortgage Purchase Agreement shall contain such provisions, including representations and warranties of a Seller, as the Agency shall determine are necessary, desirable or convenient to implement the provisions of this chapter. A Mortgage Purchase Agreement may provide for fees to be paid by the Seller to the Agency.

12601. Provisions of Servicing Agreements. The Agency shall enter into a Mortgage Servicing Agreement with each Mortgage Lender. Each Servicing Agreement shall provide that the Servicer shall service the Mortgages in accordance with acceptable mortgage practices of prudent lending, including contacting each Mortgagor and otherwise exercising diligence in collecting amounts due under the Mortgages. Each Servicing Agreement shall contain such other provisions as the Agency shall determine to be necessary, desirable or convenient to protect the interests of the Agency as Mortgagor.

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12602. Default by Mortgagor. In the event of a default under the terms of a Mortgage Loan by a Mortgagor, all action taken by the Agency or by the Servicer of such Mortgage Loan shall be consistent with the then applicable procedures (including HM Mortgagee Letter 76-9 and HM Notice 76-43, as the same may be amended, supplemented or superseded) prescribed by FHA or VA, as the case may be.

12603. Late Charges. The Mortgage Loan may provide for the collection by the Servicer of a late charge not to exceed the maximum amount permitted by FHA at the time the loan is made.

12604. Prepayment Penalties. The Mortgage Loan may not provide for the payment of any charge on account of prepayment of the Mortgage in whole or in part unless such charges are permitted by FHA or VA, as the case may be, at the time the loan is made and, then, such charges may not exceed the amount permitted by FHA or VA.

12605. New Construction. No less than 90 per centum (90%) of the total number of Mortgage Loans delivered to the Agency under the Program by any single Mortgage Lender shall be loans on Newly Constructed Residential Structures. Provided, however, that such restriction shall not apply to the extent that:

- (a) a Mortgage Lender receives express written waiver of this requirement from the Agency;
- (b) a Mortgage Lender delivers Mortgage Loans on Large Family Residential Structures which are to be occupied by Large Families;
- (c) a Mortgage Lender delivers Mortgage Loans on Rehabilitation Residential Structures; or
- (d) a Mortgage Lender delivers Mortgage Loans on Single Family Residential Structures located in Neighborhood Preservation Areas.

12606. Incentives for Delivery of Certain Types of Mortgages. The Agency will at the time it purchases a Mortgage Loan, rebate to a Mortgage Lender, one quarter of one percent of the Mortgage Loan amount if such Mortgage Loan:

- (a) is on a rehabilitated Residential Structure;
- (b) is on a Multi-Unit Subsidized Residential Structure; for which alternative financing was not available for utilization of subsidies under Section 8 of the United States Housing Act of 1937, as amended;
- (c) is on a Large Family Residential Structure which is to be occupied by a Large Family;
- (d) is made to a Displaced Family.

12607. Substitution of Agency Funds for Mortgage Lender's Resources. At the time of delivery of a Mortgage Loan to the Agency, the Seller thereof shall certify that the Seller has used its best efforts to determine that the Mortgagor would not have qualified for a loan insured by FHA or guaranteed by VA at the unsubsidized interest rate prevailing for such loans at the time the Mortgage Loan delivered to the Agency was made.

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This order shall take effect on the thirtieth day after its filing with the Secretary of State as provided in Section 11422 of the Government Code.

These regulations will not create any new or increased costs to local government pursuant to Section 2231 of the Revenue & Taxation Code.

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