

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 355
ILLINOIS AFFORDABLE HOUSING TAX CREDIT PROGRAM

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AUTHORITY: Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28].

SOURCE: Adopted by emergency rulemaking at 25 Ill. Reg. 15636, effective November 29, 2001, for a maximum of 150 days; adopted at 26 Ill. Reg. 5902, effective April 15, 2002; emergency amendment at 26 Ill. Reg. 7325, effective April 26, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13220, effective August 20, 2002; emergency amendment at 27 Ill. Reg. 5033, effective March 10, 2003, for a maximum of 150 days; emergency expired August 6, 2003; amended at 27 Ill. Reg. 14310, effective August 21, 2003; amended at 31 Ill. Reg. 5797, effective March 30, 2007.

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Section 355.101 Authority

This Part is established to set forth the standards for the allocation of Affordable Housing Tax Credits by the Illinois Housing Development Authority under Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28] in connection with the acquisition, construction, rehabilitation and financing of, or the provision of financing assistance for, affordable housing.

Section 355.102 Purpose and Objectives

This Part is established to accomplish the purposes of Section 7.28 of the Illinois Housing Development Act and Section 214 of the Illinois Income Tax Act [35 ILCS 5/214], and in particular the awarding of Affordable Housing Tax Credits.

Section 355.103 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Affordable Housing Project": A housing project that is either:

a rental project in which at least 25% of the units that have rents (including tenant-paid heat) that do not exceed, on a monthly basis, 30% of the gross monthly income of a Household earning the maximum income for a Low-Income Household in the geographical area in which the Affordable Housing Project is located and that are occupied by persons and families who qualify as Low-Income Households; or

a unit for sale to Low-Income Households and who will pay no more than 30% of their gross household income for mortgage principal, interest, property taxes, and property insurance upon the purchase of the unit.

"Affordable Housing Restrictions": The income and occupancy restrictions for an Affordable Housing Project required by Section 7.28 and this Part, or those set forth in the Application for the Affordable Housing Project, whichever are more stringent.

"Affordable Housing Tax Credits": Affordable Housing Tax Credits, as authorized by Section 7.28 and Section 214 of the Illinois Income Tax Act.

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"Affordable Housing Tax Credit Ceiling": The aggregate amount of Affordable Housing Tax Credits available for Allocation in a State fiscal year.

"Agency": The Authority, the City of Chicago or any other municipality that may subsequently be designated by law as an agency for the Allocation of Affordable Housing Tax Credits.

"Agency Affordable Housing Tax Credit Ceiling": That portion of the Affordable Housing Tax Credit Ceiling that is available for Allocation by an Agency. That amount is 24.5% of the Affordable Housing Tax Credit Ceiling for the City of Chicago, and 75.5% of the Affordable Housing Tax Credit Ceiling for the Authority.

"Agency Head": The Executive Director of the Authority or the Housing Commissioner of the City of Chicago.

"Allocation": An award by an Agency of Affordable Housing Tax Credits in connection with an Affordable Housing Project, an Employer-Assisted Housing Project or Technical Assistance.

"Applicant": The Sponsor (and any other affiliated entities) applying for an Allocation.

"Application": An application to an Agency for a Reservation and an Allocation submitted by an Applicant, including the required supporting documentation.

"Authority": The Illinois Housing Development Authority.

"Certificate": The certificate issued by an Agency evidencing an Allocation. The Certificate shall state the effective date of the Allocation.

"Compliance Period": The period during which an Affordable Housing Project is obligated to comply with the Affordable Housing Restrictions, as set forth in the Application. The Compliance Period for each Affordable Housing Project shall be a minimum of 10 years from the date of the initial certificate of occupancy from the municipality in which the Affordable Housing Project is located, except for:

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Single Family Projects in which a Sponsor provides construction subsidies or down payment and closing cost assistance to Low-Income Households or Employer-Assisted Housing Projects purchasing a Single Family Residence, in which case the Compliance Period shall be 5 years from the date of the closing of the purchase of the Single Family Residence, and

Hardship cases, as provided in Section 355.404 of this Part.

"Donation": Money, securities, or real or personal property that is provided without consideration to a Sponsor and that is used for:

costs associated with purchasing, rehabilitating constructing, or providing or obtaining financing for an Affordable Housing Project, including fees for attorneys, architects, accountants, surveyors and appraisers;

Technical Assistance; or

General Operating Support of the Sponsor; or

an Employer-Assisted Housing Project.

"Donor": An individual or entity, other than the Federal government, the State government, any local municipality or any agency, board commission, corporation or authority of the Federal government, the State government or any local government, except as provided in Section 355.311 of this Part, making a Donation.

"Employer-Assisted Housing Project": A project that involves Donations made to a Sponsor that are used for down payment and closing cost assistance, reduced-interest mortgages, mortgage guarantee programs, rental subsidies, or individual development account savings plans that are:

provided by the Sponsor to the employers' employees to assist them to secure housing near the employer's work place; and

restricted to housing near such work place; and

restricted to employees who qualify as Moderate-Income Households.

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"General Operating Support": Any cost incurred by a Sponsor, directly or indirectly, in connection with an Affordable Housing Project or an Employer-Assisted Housing Project. Such costs may include a proportionate amount of the general overhead expenses of the Sponsor.

"Gross Household Income": The total annualized income of a Household from whatever source derived and before taxes or withholdings.

"Household": A single person, family or unrelated persons living together.

"Initial Closing Date": The date on which all legal requirements for the funding of an Affordable Housing Project have been met, as determined by the funding sources for the Affordable Housing Project, and the funds are made available to the Affordable Housing Project for distribution.

"Low-Income Household": A Household whose adjusted income is less than or equal to 60% of the median income of the geographical area of the Household's prospective residence, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Material Participation": An individual or entity provides personal services to tenants or prospective tenants of a Multifamily Housing Project or rental Single Family Project, or professional services to a Multifamily Housing Project, on a regular, continuous, and substantial basis for more than 300 hours during each year during the Compliance Period. This requirement will be satisfied if the Sponsor is the owner, or holds a controlling interest in the entity that is the owner, of the project; or is the managing general partner, or holds a controlling interest in the entity that is the managing general partner, of a limited partnership that is the owner of the project; or is the managing member, or holds a controlling interest in the entity that is the managing member, of the limited liability company that is the owner of the project.

"Members": The Members of the Authority.

"Moderate-Income Household": A Household whose adjusted income is less than 120% of the median income of the geographical area of the Household's Employer-Assisted Housing Project, adjusted for family size, as such adjusted

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income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Multifamily Housing Project": An Affordable Housing Project comprised of one or more buildings (other than Single Family Residences) containing an aggregate of five or more rental units.

"Program": The Illinois Affordable Housing Tax Credit Program.

"Regulatory Agreement": The Illinois Affordable Housing Tax Credit Regulatory Agreement to be recorded against rental Affordable Housing Projects and Employer Assisted Housing Projects.

"Reservation": An Agency's conditional reservation of Affordable Housing Tax Credits for a Sponsor. A Reservation shall be valid for a period no longer than 24 months from the date of the Reservation Letter. If the Affordable Housing Tax Credits so reserved have not been allocated within that 24 month period, the Reservation shall expire and shall not be renewed.

"Reservation Letter": The letter from an Agency to a Sponsor conditionally reserving Affordable Housing Tax Credits.

"Section 7.28": Section 7.28 of the Act.

"Single Family Project": An Affordable Housing Project consisting of:

the construction of Single Family Residences; or

the rehabilitation of a 2, 3, or 4 unit buildings; upon completion of rehabilitation, the units are sold or rented; or

the rehabilitation of Single Family Residences, which are then sold or rented; or

the rehabilitation of buildings containing more than 4 units; upon completion of rehabilitation, the units are sold as condominiums; or

the financing of Single Family Residences using junior mortgages with a

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below market interest rate; or

construction subsidies to lower the purchase price of Single Family Residences.

"Single Family Residence": A house, condominium, townhouse or other residence used for occupancy by a single Household as its primary residence.

"Sponsor": A not-for-profit organization that is:

organized under the General Not For Profit Corporation Act of 1986 [805 ILCS 105] for the purpose of constructing or rehabilitating affordable housing units in this State; or

organized for the purpose of constructing or rehabilitating affordable housing units and has been issued a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under provisions of the Internal Revenue Code; or

an organization designated as a community development corporation by the United States Government under Title VII of the Economic Opportunity Act of 1964; or

a limited liability company that has a not-for-profit organization as its sole member.

"State": The State of Illinois.

"Technical Assistance": Any cost incurred by a Sponsor for:

planning for an Affordable Housing Project or an Employer-Assisted Housing Project, or

assistance with an Application, or

counseling services provided to prospective purchasers of a Single Family Residence in connection with a Single Family Project or an Employer-Assisted Housing Project, except as provided in Section 355.408 of this

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"Very Low-Income Household": A Household whose adjusted income is less than or equal to 50% of the median income of the geographical area of the Household's prospective residence, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.104 Compliance with Federal Law

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal law.

Section 355.105 Forms and Procedures for the Program

An Agency may prepare, use, supplement, and amend forms, agreements, and other documents and procedures as may be necessary to implement the Program, all as may be prescribed by the Agency Head.

Section 355.106 Fees and Charges

In connection with an Application, an Agency may collect a fee from the Applicant in an amount not to exceed \$500, payable when the Application is submitted. In connection with a Reservation, an Agency may collect a fee from the Applicant in an amount not to exceed 3% of the Reservation, payable by the due date specified in the Reservation Letter. The Agency may assess a modification fee for changes in the owner, the name of the owner or the characteristics of an Affordable Housing Project, such as unit type, distribution or population to be served.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.107 Amendment

This Part may be supplemented, amended, or repealed by the Members from time to time and in such manner as they may determine consistent with this Part, the Act, including but not limited to Section 7.28, and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

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Section 355.108 Severability

If any clause, sentence, paragraph, subsection, Section, or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section, or Subpart as to which that judgment is rendered.

Section 355.109 Gender and Number

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

Section 355.110 Titles and Captions

Titles and captions of Subparts, Sections, and subsections are used for convenience and reference and are not a part of the text.

SUBPART B: AFFORDABLE HOUSING TAX CREDIT ALLOCATIONS

Section 355.201 Authority to Allocate Affordable Housing Tax Credits

For any State fiscal year, an Agency may reserve and/or allocate Affordable Housing Tax Credits in an amount not to exceed the Agency Affordable Housing Tax Credit Ceiling. Any Affordable Housing Tax Credits in the Agency Affordable Housing Tax Credit Ceiling that are not reserved or allocated during that State fiscal year shall expire and shall not be reserved or allocated in any succeeding State fiscal year.

Section 355.202 Transfer of Agency Affordable Housing Tax Credit Ceiling

After March 1 of a State fiscal year, an Agency may transfer all or a portion of its Agency Affordable Housing Tax Credit Ceiling for that State fiscal year to another Agency.

Section 355.203 Application Process

A Sponsor may apply for an Allocation by submitting an Application on forms prescribed by an Agency that may require the following information:

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- a) The name and location of the proposed Affordable Housing Project;
- b) The name, address and telephone number of the Sponsor and the proposed owner of the Affordable Housing Project, and, if known, the attorney, accountant, architect, general contractor and consultant for the Affordable Housing Project;
- c) A copy of the Sponsor's current Articles of Incorporation, certified by the Secretary of State or equivalent official of the state of incorporation;
- d) A history of the Sponsor's experience in developing housing, and low-income housing in particular;
- e) A complete description of the proposed Affordable Housing Project, including but not limited to the site, the number and type of units and a rent schedule for the Affordable Housing Project, and identifying any proposed tenant populations with special housing needs;
- f) The amount of the proposed financing for the Affordable Housing Project, including letters of interest or commitments from prospective lenders;
- g) The nature and amount of the proposed or anticipated Donation;
- h) For a Multifamily Housing Project or a rental Single Family Project, the percentage of units to be reserved for Low-Income Households and Very Low-Income Households;
- i) The estimated total cost of the proposed Affordable Housing Project, including the cost of land acquisition, the cost of construction, the amount of projected reserves, architects' fees, attorneys' fees, accountant's fees, surveyor's fees, title insurance and all other costs associated with the Affordable Housing Project;
- j) A schedule for the proposed Affordable Housing Project showing the anticipated Initial Closing Date and the anticipated date of completion;
- k) The amount of General Operating Support requested, if any, and the purposes for which it will be used;
- l) The amount of Technical Assistance requested, if any, and the purposes for which it will be used;

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- m) The amount of Affordable Housing Tax Credits requested;
- n) A certification from the Sponsor certifying to the Agency that all information contained in the Application and all accompanying information is true, accurate, and complete, to the best of the Sponsor's knowledge; and
- o) Any additional documentation of the information provided in the Application that the Agency may require in order to confirm the information in the Application, such as a legal description of the Affordable Housing Project site, etc.

Section 355.204 Agency Review

The Agency shall review each complete Application and approve or reject it. The Agency's review of an Application shall include, but not be limited to, the following criteria (where applicable):

- a) Section 7.28 Requirements. The ability of the Affordable Housing Project to meet the requirements of Section 7.28 and this Part throughout the Compliance Period;
- b) Financial Feasibility. The financial feasibility of the Affordable Housing Project, taking into consideration the existing housing for Low-Income Households and Very Low-Income Households in the geographical area in which the Affordable Housing Project will be located, the cost of the Affordable Housing Project, the projected income and operating expense of the Affordable Housing Project, and all sources of financing for the Affordable Housing Project, including owner's equity;
- c) Sponsor's Ability. The ability of the Sponsor to successfully construct the Multifamily Housing Project or the rental Single Family Project and place it in service, taking into consideration the construction or other schedule submitted with the Application, the Sponsor's experience in the development, construction and/or rehabilitation of housing, and the size and scope of the Affordable Housing Project; or the ability of the Sponsor to provide the Technical Assistance; or the ability of the Sponsor to implement the Employer-Assisted Housing Project;
- d) Site Control. Evidence of site control, satisfactory to the Agency, for the

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Affordable Housing Project, which shall include, but not be limited to, a purchase contract, an option to purchase, or a letter of intent from a prospective Donor of real property or from a governmental agency;

- e) Donations. The amount of the proposed or anticipated Donation and the Sponsor's plan for obtaining the Donation;
- f) Location. The need for housing for Low-Income and Very Low-Income Households in the geographical area in which the Affordable Housing Project will be located, based on census data, social surveys, published data, or on-site inspections; and the location of other Affordable Housing Projects for which the Agency has allocated or reserved Affordable Housing Tax Credits;
- g) Housing Stock. The likelihood that the Affordable Housing Project will increase the quality and quantity of housing stock and redevelop blighted areas or prevent the occurrence of slum conditions;
- h) Preservation. The likelihood that the Affordable Housing Project will preserve housing projects in danger of being lost as affordable housing stock;
- i) Involuntary Displacement. For Multifamily Housing Projects or rental Single Family Projects involving rehabilitation, the Sponsor must minimize involuntary displacement of current tenants who are Low-Income and Very Low-Income Households, taking into consideration their safety during rehabilitation and the scope and nature of the proposed rehabilitation;
- j) Special Needs Populations. The availability and accessibility of the Affordable Housing Project for special needs populations, including, but not limited to, homeless or displaced individuals, persons with physical, mental or developmental disabilities, persons with alcohol or substance abuse problems, and persons with AIDS and related diseases;
- k) Compliance Period. Whether the Compliance Period of the Affordable Housing Project exceeds the minimum requirements of Section 7.28;
- l) Lower Income Households. The ability of the Affordable Housing Project to serve Households with incomes less than the maximum income for Low-Income or Very Low-Income Households for the geographical area in which the Affordable Housing Project will be located.

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(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.205 Approval or Rejection by Agency

- a) Upon an Agency's completion of its review of an Application, the Agency shall notify the Sponsor in writing of its approval or rejection of the Application.
- b) Upon the approval of an Application, the Agency shall issue a Reservation Letter conditionally reserving Affordable Housing Tax Credits. The amount of the Affordable Housing Tax Credits reserved shall be 50% of the amount of the approved amount of the Donation or the actual Donation, whichever is less.
- c) The Reservation Letter shall set forth the terms and conditions upon which the Affordable Housing Tax Credits will be allocated to the Affordable Housing Project, including, but not limited to:
 - 1) Full compliance by both the Sponsor and, if applicable, the proposed Affordable Housing Project, Technical Assistance or Employer-Assisted Housing Project, with the requirements of Section 7.28 and this Part;
 - 2) Certification from the Sponsor certifying to the Agency that the Sponsor and the Affordable Housing Project will be in full compliance with the requirements of Section 7.28 and this Part and will continue to be in compliance during the Compliance Period;
 - 3) Certification from the Sponsor that there will be no material change in the Sponsor, the Sponsor's ownership structure or the structure of the Affordable Housing Project without the prior written approval of the Agency; and
 - 4) If applicable, execution of either a Regulatory Agreement, as required by Section 355.207 of this Part, or one or more Recapture Agreements, as required by Section 355.404 of this Part.
- d) The Sponsor shall have 12 months from the date of the Reservation Letter to obtain a Donation. Affordable Housing Projects and Employer-Assisted Housing Projects may submit a written request for an extension of the Donation Period for an additional 12 months as approved by the Agency. For Technical Assistance,

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the Sponsor shall have 12 months from the Date of the Reservation Letter to obtain a Donation.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.206 Sponsor Participation

For a Multifamily Housing Project or a rental Single Family Project, the Sponsor must have a Material Participation in the development and operation of the Multifamily Housing Project or rental Single Family Project throughout the Compliance Period.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.207 Regulatory Agreement for Rental Projects

The Sponsor and the owner of each Affordable Housing Project that involves the rental of housing units shall enter into a Regulatory Agreement with the allocating Agency before the Agency makes an Allocation in connection with that Affordable Housing Project. Under the Regulatory Agreement, the owner of the Affordable Housing Project shall be required to adhere to the Affordable Housing Restrictions for a period equal to the Compliance Period, and agree not to transfer the ownership, or materially change the ownership structure of the owner of the Affordable Housing Project, without the approval of the Agency. The Regulatory Agreement shall be recorded in the Office of the Recorder of Deeds in the county where the Affordable Housing Project is located as a restrictive covenant on the Affordable Housing Project. The Regulatory Agreement shall cease to apply in the event of a foreclosure, transfer of title by deed in lieu of foreclosure or similar event, unless the allocating Agency determines that such foreclosure, transfer of title by deed-in-lieu of foreclosure or similar event has occurred pursuant to an arrangement between the owner of the Affordable Housing Project and any lenders or any other party, a purpose of which is to terminate the occupancy restrictions set forth in the Regulatory Agreement.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.208 Affordable Housing Project Documentation and Certification

On or before the Initial Closing Date of an Affordable Housing Project, the Sponsor shall provide to the Agency the following documentation:

- a) a certification of the amount of the Donation and documentation as the Agency

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shall require under Sections 355.304, 355.305, 355.306 and 355.307 of this Part to substantiate the facts set forth in the certification;

- b) the name and address of the Sponsor;
- c) the total number of units or Single Family Residences;
- d) the number of units or Single Family Residences to be occupied by Low-Income and Very Low-Income Households;
- e) the type of Households to be served (such as elderly or special needs);
- f) for Multifamily Housing Projects, the number of bedrooms in each unit; and
- g) the amount of Affordable Housing Tax Credits allocated for General Operating Support and Technical Assistance, and the uses of such General Operating Support and Technical Assistance.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.209 Affordable Housing Tax Credit Allocation

- a) An Agency shall make Allocations:
 - 1) for Affordable Housing Projects, after the Agency has received documentation, in a format acceptable to the Agency, that establishes to the satisfaction of the Agency that the Sponsor and the Affordable Housing Project are in compliance with all of the requirements of Section 7.28 of the Act and this Part; the date of the Allocation shall be the date of the Initial Closing.
 - 2) for Technical Assistance and Employer-Assisted Housing Projects, after the Agency has received documentation, in a format acceptable to the Agency, that establishes to the satisfaction of the Agency that the Sponsor is in compliance with all of the requirements of Section 7.28 and this Part and has the ability to provide the Technical Assistance or to implement the Employer-Assisted Housing Project, as applicable; the date of the Allocation shall be the date of the satisfaction of these requirements.

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- b) The effective date of the Allocation shall be the date set forth in the Reservation Letter to the Sponsor, or the date of the Allocation at the election of the Sponsor. No Allocation shall be made with an effective date earlier than the effective date of Section 7.28. The Agency shall submit forms as the Illinois Department of Revenue may require to notify the Department of the Allocation for the Affordable Housing Project.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.210 Recapture of Affordable Housing Tax Credits

Except in the case of fraud committed by a Donor, there shall be no recapture of Affordable Housing Tax Credits after Allocation.

Section 355.211 Return and Reallocation of Affordable Housing Tax Credits

A Sponsor that has received a Reservation and that is unable to use the Affordable Housing Tax Credits reserved for the Sponsor by such Reservation may return these Affordable Housing Tax Credits to the Agency that issued the Reservation. If a return of the Affordable Housing Tax Credits occurs during the State fiscal year in which such Affordable Housing Tax Credits were reserved, such Agency may reserve and reallocate any Affordable Housing Tax Credits that have been returned or recaptured.

SUBPART C: DONATIONS

Section 355.301 Acceptable Types of Donations

Donations may only be made in the form of cash, securities, or real or personal property. Provision of services of any kind shall not constitute a Donation. Upon receipt of a Donation, a Sponsor shall notify the allocating Agency and provide to the Agency documentation evidencing both the Donation and its value, which must be determinable as of the date of the Donation.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.302 Aggregation of Donations

Subject to Section 355.303, a Sponsor may aggregate a number of Donations into a single Donation in connection with an Allocation. For Employer-Assisted Housing Projects, a Sponsor

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may aggregate a number of Donations from multiple employers into a single source of funds for use in assisting eligible employees secure housing near their work place. The Certificate issued in connection with the Allocation shall state the aggregate amount of the Donation; however, the Affordable Housing Tax Credits may be divided among the Donors of the individual Donations, as determined by the Sponsor.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.303 Minimum Donation Amount

Except in the case of the transfer of a portion of a Certificate as set forth in Section 355.309 of this Part, the minimum amount of a Donation shall be \$10,000. Individual Donations in an aggregated Donation, including Donations for which the Affordable Housing Tax Credits are transferred as permitted under Section 355.309 of this Part, may be less than \$10,000, and the aggregated Donation must be at least \$10,000.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.304 Cash

The amount of a cash Donation shall be evidenced by a copy of the check or cashier's check from the Donor, evidence of a wire-transfer of funds by the Donor, or such other evidence of the provision of cash by the Donor that may be satisfactory to the allocating Agency.

Section 355.305 Securities

Donations of stocks, bonds or other securities shall be documented by the certificate transferring ownership of the security to the Sponsor or a certificate evidencing the transfer of the beneficial interest in the security to the Sponsor; the amount of the Donation shall be the market value of the security at the close of the market on the day of the transfer.

Section 355.306 Real Property

Donations of real property be: the fee simple interest in such real property; the beneficial interest of a land trust if a land trust holds title to such real property; a ground lease with a minimum term of 50 years leasing the real property to the Sponsor; or a sale of the fee simple interest on real property at a discount ("Discounted Sale"). Donations of a fee simple interest in real property shall be evidenced by a copy of the recorded deed conveying the fee simple title of the real property to the Sponsor and a title search or equivalent documentation showing that the

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Donor held fee simple title to the real property as of the date of the transfer. A Donation of a ground lease shall be evidenced by a copy of the ground lease under which the real property is leased. A Donation of real property held in a land trust shall be evidenced by the document transferring the beneficial interest in the land trust to the Sponsor and a copy of the land trust agreement, certified by the land trustee, showing that the Sponsor is the sole beneficiary of the land trust. The value of the real property or the leasehold interest in a ground lease shall be determined on or prior to the date of the Donation by a current independent appraisal done by a State-licensed appraiser, based on the highest and best use of the real property, completed within 6 months prior to the date of the Donation. The valuation of the property or leasehold interest must be based on existing legal restrictions. An Agency may, in its discretion, have another appraisal done by a State-licensed appraiser; in such a case, the value shall be the lesser of the two appraisals. In a Discounted Sale, the Agency must be provided with a copy of contract of sale, the settlement statement and an appraisal of the real property. The amount of Donation shall be the difference between the appraised value of the real property and the sale price.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.307 Personal Property

A Donation of personal property, such as construction or other materials sold in the ordinary course of business, shall be valued at the lesser of its fair market value or its cost to the Donor, and may include costs incurred in making the transfer, such as delivery costs, but excluding sales tax. For personal property such as art, antique furniture, coin collections or jewelry, the value may be established by an appraisal by a qualified appraiser. In the case of such property, an Agency may, in its discretion, have another appraisal done by a qualified appraiser; in such a case, the value of the property shall be the lesser of the two appraisals.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.308 Limitation on Donations

Funds used by a prospective Donor to acquire an ownership interest in an Affordable Housing Project shall not qualify as a Donation.

Section 355.309 Transfer of Affordable Housing Tax Credits

A Donor that has received a Certificate may transfer all or a portion of the Affordable Housing Tax Credits represented by this Certificate to another individual or entity if an individual or entity has purchased land for the Affordable Housing Project or has made a Donation to an

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Affordable Housing Project. An individual or entity receiving a transfer of Affordable Housing Tax Credits in an amount less than \$100,000 must make a Donation for an Affordable Housing Project of at least 10% of the amount of the transferred Affordable Housing Tax Credits. An individual or entity receiving a transfer of Affordable Housing Tax Credits in an amount equal to or greater than \$100,000 must make a minimum Donation of \$10,000. The Certificate shall indicate the name of the original Donor and the name of the entity to which the Certificate is transferred.

Section 355.310 Material Participation of Sponsor

No transfer of cash, securities, real property or personal property to a Sponsor shall be a Donation unless the Sponsor is committed to Material Participation in the Multifamily Housing Project for the full term of the Compliance Period.

Section 355.311 Donations from State and Local Governments

Agencies may accept Donations from the State government, local municipalities and agencies, boards, commissions, corporations or authorities of State governments and municipalities in the form of the following:

- a) money, provided that the money does not come directly or indirectly from any Federal source or any State program providing funding either related to affordable housing or services provided in connection with affordable housing; and further provided that the money does not have to be repaid with funds from the operation of the Affordable Housing Project;
- b) the value of waived permit fees or other customary charges, such as water and sewer permit fees, hook up charges or impact fees, when the waiver is made in a manner that achieves a reduction in the cost of construction of an Affordable Housing Project;
- c) real property, as described in Section 355.306 of this Part; and
- d) loans made at a below-market interest rate. The value of the Donation shall be the present value, as of the date of the Donation, of the difference of the market rate interest that would be paid over the term of the loan and the actual interest to be paid over the term of the loan.

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(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

SUBPART D: PROJECTS

Section 355.401 Single Family Project Requirements

In each Single Family Project, other than Employer Assisted Housing Projects, all of the units or Single Family Residences shall be sold or rented to Low-Income Households.

Section 355.402 Down Payment and Closing Cost Assistance (Repealed)

Section 355.403 Employer-Assisted Housing Projects

\$2,000,000 of the Affordable Housing Tax Credit Ceiling for a State fiscal year shall be reserved for Employer-Assisted Housing Projects. Of this ceiling, 24.5% shall be available for allocation by the City of Chicago and 75.5% shall be available for allocation by the Authority. If those funds are not reserved for Employer-Assisted Housing Projects by March 31 of that State fiscal year, the funds shall be available for Reservation and Allocation for Affordable Housing Projects, Technical Assistance or General Operating Support.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.404 Recapture Agreement

Each Household receiving assistance or a subsidy under a Single Family Project in connection with the purchase of a Single Family Residence shall enter into a Recapture Agreement with the Sponsor. The Recapture Agreement shall create a lien on the Single Family Residence and shall provide that, if the Single Family Residence is transferred during the term of the Compliance Period, other than by will, inheritance or a transfer by law to a joint tenant owner, the Household shall repay to the Sponsor a pro-rated portion of any funds provided as a grant or subsidy toward the purchase of the Single Family Residence. In cases of hardship to a Low-Income Household, such as serious illness or loss of employment, an Agency may shorten the Compliance Period.

Section 355.405 Multifamily Housing Projects

An Agency may make Allocations for Multifamily Housing Projects that involve the construction or rehabilitation of multifamily rental housing buildings.

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Section 355.406 Set-Aside for Technical Assistance and General Operating Support

\$1,000,000 of the Affordable Housing Tax Credit Ceiling for a State fiscal year shall be reserved for Technical Assistance and General Operating Support. Of this ceiling, 24.5% shall be available for allocation by the City of Chicago and 75.5% shall be available for allocation by the Authority. If these funds are not reserved for Technical Assistance or General Operating Support by March 31 of that State fiscal year, the funds shall be available for Reservation and Allocation for any type of Affordable Housing Projects or Employer-Assisted Housing Projects.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.407 Limitations on Amount of Technical Assistance and General Operating Support

No Affordable Housing Project shall receive Affordable Housing Tax Credits for Technical Assistance and General Operating Support for the Sponsor of the Affordable Housing Project in an amount greater than 10% of the Allocation for the Affordable Housing Project.

Section 355.408 Technical Assistance – Home Ownership Counseling

An Agency Head may determine that his or her Agency will allocate Affordable Housing Tax Credits for Technical Assistance for Donations to entities that provide home ownership counseling services unconnected to a particular Affordable Housing Project. All such home ownership counseling services shall be provided to Households that qualify as Low-Income Households or in the case of Employer Assisted Housing Moderate Income Households as of the date of the provision of the services.

SUBPART E: COMPLIANCE MONITORING

Section 355.501 Compliance Monitoring

The allocating Agency will annually monitor the compliance of each Affordable Housing Project providing rental housing.

Section 355.502 Monitoring Fees

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An Agency may assess an annual fee for compliance monitoring of Affordable Housing Projects. If an Agency decides to charge such a fee, the amount of such fee shall be established on July 1 of the year in which such decision is made. An Agency may redetermine the amount of its compliance monitoring fee as of each July 1. The Agency shall determine the amount of the fee, or the amount of the redetermined fee, based on the cost to the Agency of compliance monitoring of Affordable Housing Projects for the previous State fiscal year.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.503 Books and Records

The books and records of each Sponsor and each Affordable Housing Project shall be subject to inspection, examination and copying by the allocating Agency and its authorized representatives or agents at such times as the allocating Agency reasonably requires for the purpose of determining whether the Sponsor and such Affordable Housing Project is in compliance with Section 7.28 of the Act and this Part.

Section 355.504 Furnishing Information

Each Sponsor shall furnish such information and operating reports as the allocating Agency shall require in connection with the monitoring of the Sponsor, and if applicable, the Sponsor's Affordable Housing Project or Employer-Assisted Housing Project for compliance with Section 7.28 of the Act and this Part.

SUBPART F: REPORTS

Section 355.601 Agency Reports

Each Agency shall submit quarterly reports to the Authority setting forth the Agency's activities under the Program for that quarter. The report shall include the following information:

- a) the amount of Affordable Housing Tax Credits reserved or allocated since the date of the last report;
- b) the name and address of each Sponsor;
- c) For each Affordable Housing Project:

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- 1) the amount of Affordable Housing Tax Credits reserved or allocated;
 - 2) the total number of units or Single Family Residences in the Affordable Housing Project;
 - 3) the number of units or Single Family Residences to be occupied by Low-Income and Very Low-Income Households;
 - 4) the type of Households to be served (such as elderly or special needs); and
 - 5) for Multifamily Housing Projects, the number of bedrooms in each unit;
- d) For each Affordable Housing Project, the amount of Affordable Housing Tax Credits reserved or allocated for General Operating Support and Technical Assistance, and the Sponsor's use of that General Operating Support and Technical Assistance;
 - e) In connection with Technical Assistance for home ownership counseling services, the amount of Affordable Housing Tax Credits reserved or allocated and the number of Low-Income and Very Low-Income Households receiving counseling; and
 - f) In connection with an Employer-Assisted Housing Project, the amount of Affordable Housing Tax Credits reserved or allocated and the number of Very Low-Income, Low-Income and Moderate Income Households that received assistance.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)