

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

PART 360
AFFORDABLE HOUSING PROGRAM

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AUTHORITY: Implementing Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)] and authorized by Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 2094, effective January 22, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 9117, effective May 24, 1990; amended at 15 Ill. Reg. 17088, effective November 19, 1991; emergency amendment at 18 Ill. Reg. 2124, effective January 12, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8663, effective May 25, 1994; amended at 22 Ill. Reg. 4321, effective February 4, 1998; amended at 23 Ill. Reg. 3692, effective March 15, 1999; amended at 23 Ill. Reg. 8819, effective July 26, 1999; emergency amendment at 24 Ill. Reg. 14065, effective September 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 2416, effective January 24, 2001; amended at 25 Ill. Reg. 12621, effective September 20, 2001.

SUBPART A: GENERAL RULES

Section 360.101 Authority

This Part is authorized by and made pursuant to the Illinois Affordable Housing Act [310 ILCS 65] and shall govern the Program.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.102 Purpose and Objectives

This Part is established to accomplish the general purposes of the Affordable Housing Act and in

particular the making of grants, mortgages or other loans to acquire, construct, rehabilitate, develop, operate, insure and retain affordable Single-Family Housing and Multifamily Housing for Low-Income Households and Very Low-Income Households.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.103 Definitions

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

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

"Advisory Commission": The Affordable Housing Advisory Commission.

"Affordable Housing": Residential housing that, so long as the same is occupied by Low-Income Households or Very Low-Income Households, requires payment of monthly housing costs, including utilities other than telephone, of no more than 30% of the maximum allowable income as stated for such households as set forth in Section 360.904(b)(1) and (2) of this Part.

"Affordable Housing Act": The Illinois Affordable Housing Act [310 ILCS 65].

"Affordable Housing Bond Program Rules": 47 Ill. Adm. Code 365.

"Affordable Housing Program Trust Fund Bonds or Notes": The bonds or notes issued by the Authority under the Act to further the purposes of the Affordable Housing Act.

"Applicant": The person or entity applying for an allocation of monies from the Trust Fund. An individual applying for funds to acquire, rehabilitate, construct or finance a Single-Family Development that is or would be owned or occupied by such individual may not be an Applicant.

"Authority": The Illinois Housing Development Authority.

"Clearinghouse": The person in the Office of the Governor designated by the Governor to provide notice to appropriate State and local agencies of proposed Developments or Single-Family Developments.

"Development": A Multi-family Housing project consisting of the Real Estate, together with all improvements, buildings, equipment, and personal property appurtenant thereto.

"Director": The Director of the Authority.

"Grant": A grant from the Authority to a Recipient to be used in connection with a Development or Single-Family Development.

"Loan": A loan from the Authority to a Recipient to be used in connection with a Development or Single-Family Development.

"Low-Income Household": A single person, family or unrelated persons living together whose adjusted income is more than 50%, but less than 80%, of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the 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).

"Members": The Members of the Authority.

"Multi-family Housing": A building or buildings providing housing to 5 or more households.

"Note": The document executed as evidence of a Borrower's indebtedness under a Loan and any supplements thereto and modifications or amendments thereof.

"Part": This Part 360.

"Participant Selection Plan": The participant selection plan approved by the Authority for a Single-Family Development.

"Program": The Illinois Affordable Housing Program.

"Real Estate": The real property upon which a Development or Single-Family Development is to be or has been constructed.

"Recipient": An individual, proprietorship, partnership, for-profit corporation, not-for-profit corporation, unit of local government, the Illinois Housing Development Authority, or the entity that holds legal title to the Development or Single-Family Development, or when the Development is held in a Trust, the entity owning the beneficial interest in a Trust that receives Trust Fund Monies from the Authority.

"Rules": The rules and regulations of the Authority as supplemented and amended from time to time.

"Single-Family Development": A Single-Family Housing project consisting of the Real Estate, together with all improvements, buildings, equipment, and personal property appurtenant thereto.

"Single-Family Housing": A building containing one to 4 dwelling units, including a mobile home as defined in subsection (b) of Section 3 of the Mobile Home Landlord and Tenant Rights Act [765 ILCS 745/3].

"Staff": The Director and the employees of the Authority.

"State": The State of Illinois.

"Tenant": The person, family or unrelated persons leasing a Single-Family Development or a dwelling unit in a Development.

"Tenant Selection Plan": The tenant selection plan approved by the Authority for a Development.

"Trust": The Illinois land trust which holds legal title to a Development or Single-Family Development.

"Trustee": The trustee of a Trust holding legal title to a Development.

"Trust Fund": The Illinois Affordable Housing Trust Fund.

"Trust Fund Monies": All monies, deposits, revenues, income, interest, dividends, receipts, taxes, proceeds and other amounts or funds deposited or to be deposited in the Trust Fund pursuant to Section 5(b) of the Affordable Housing Act and any proceeds, investments or increases thereof.

"Utility Allowance": The cost of utilities, except telephone, based on reasonable consumption of these utilities.

"Very Low-Income Household": A single person, family or unrelated persons living together whose adjusted income is not more than 50% of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the 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 25 Ill. Reg. 12621, effective September 20, 2001)

Section 360.104 Borrowing by the Authority

To the extent allowed by the Act and the Affordable Housing Act, the Authority may borrow funds in connection with the Program.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.105 Compliance with Federal Law

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

Section 360.106 Standards - Criteria

In administering the Program, the Authority and the Staff shall, in the exercise of discretion, consider, in addition to the criteria specifically set forth in this Part;

- a) the purposes of the Program to provide affordable, decent, safe and sanitary housing, whether through the making of a Loan, a Grant or the use of Trust Fund Monies pursuant to Sections 8(b), (c), (d) and 9 of the Act;
- b) the requirements of applicable State and Federal law;
- c) the financial condition and previous experience of the Applicant;
- d) local government and community support for the Development or Single-Family Development;
- e) suitability of the location of the Development or Single-Family Development;
- f) cost efficiency;
- g) energy efficiency;
- h) affordability to Low-Income Households and Very Low-Income Households;
- i) amount of Trust Fund Monies requested per unit;
- j) term of the Loan and other sources of financing;
- k) secured position of the Loan;
- l) equity contribution of Applicant;

- m) amount and appropriateness of non-construction costs; and
- n) results of site and market study, or rental analysis, if applicable.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.107 Forms and Procedures for the Program

The Staff may prepare, use, supplement, and amend such forms, agreements, and other documents and such procedures as may be necessary to implement the Program, all as may be prescribed by the Director.

Section 360.108 Fees and Charges of the Authority

In connection with the Program, the Authority may establish and collect such fees and charges as may be necessary. Such fees and charges shall be deposited in the Trust Fund.

Section 360.109 Waiver (Repealed)

(Source: Repealed at 22 Ill. Reg. 4321, effective February 4, 1998)

Section 360.110 Amendment

This Part may be supplemented, amended, or repealed by the Members, after consultation with the Advisory Commission, from time to time and in such manner as they may determine consistent with this Part, the Act, the Affordable Housing Act and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

Section 360.111 Severability

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

Section 360.112 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 360.113 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.

Section 360.114 Calendar Days

Days shall mean calendar days. Due dates falling on a Saturday, Sunday, or a legal State or Federal holiday shall be deemed to fall on the next calendar day that is not a Saturday, Sunday, or a legal State or Federal holiday.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART B: USES

Section 360.201 Recipients

Only entities that are Recipients are eligible to receive funds under the Program.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.202 Beneficiaries

Funds from the Trust Fund may be expended for the benefit of Low Income Households and Very Low Income Households. The majority of funds appropriated by the Illinois General Assembly to the Trust Fund for each fiscal year shall be expended for the benefit of Very Low-Income Households.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART B: USES

Section 360.203 Permitted Uses of Trust Fund Monies

Trust Fund Monies may be used for the following purposes:

- a) to make secured, unsecured or deferred repayment Loans;
- b) to make zero percent or low interest Loans;
- c) to make Grants, payments or subsidies for the acquisition, construction, rehabilitation, development, operation, insurance or retention of Developments or Single-Family Developments or to pay predevelopment expenses;
- d) to purchase mortgage participation certificates representing an undivided interest in specified, first-lien conventional residential Illinois mortgages which are

underwritten, insured, guaranteed or purchased by the Federal Home Loan Mortgage Corporation;

- e) to be used in investments which reduce the risk associated with fluctuations in interest rates or the market price of investments or any other investments which are lawful for other fiduciaries in the State to make;
- f) to provide assistance for Developments which are occupied partly by Low-Income Households and Very-Low Income Households and partly by households not qualifying as Low-Income Households and Very Low-Income Households;
- g) to purchase first and second mortgages;
- h) to make Grants for the provision of technical assistance, outreach and building of an Applicant's capacity to develop Affordable Housing;
- i) to pay fees of the Program Administrator not to exceed the amount appropriated by the General Assembly each fiscal year in connection with the operation of the Program; and
- j) to be held, pledged, applied or dedicated pursuant to Sections 8(b), (c), (d) and 9 of the Affordable Housing Act in connection with Affordable Housing Program Trust Fund Bonds or Notes issued pursuant to the Act. Trust Fund Monies used pursuant to this subsection 360.203(j) shall be governed by the Affordable Housing Bond Program Rules.

(Source: Amended at 23 Ill. Reg. 3692, effective March 15, 1999)

Section 360.204 Market Rate Developments

Pursuant to Section 10(d) of the Affordable Housing Act the Authority may provide assistance for Developments which are to be occupied partly by Low-Income Households or Very Low-Income Households provided that the number of units to be occupied by Low-Income Households or Very-Low Income Households shall be acceptable to the Authority, in its sole discretion, and shall be in compliance with any Federal law and the regulations promulgated thereunder, if applicable.

(Source: Added at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART C: APPLICATION

Section 360.301 Application

Applicants seeking monies from the Trust Fund shall submit to the Authority a completed application form prescribed by the Authority together with a nonrefundable application fee. The application fee for for-profit Applicants shall be \$500. The application fee for all other Applicants shall be \$250.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.302 Form

The Authority shall develop an application form to be used by all Applicants.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.303 Review

Upon receipt of a completed application the Staff shall determine whether the application meets the eligibility requirements of Subpart B of this Part; and, whether all other requirements of this Part and the Affordable Housing Act are met. If the Staff determines that the application fails to meet any of these requirements, the Authority shall notify the Applicant in writing within sixty days after receipt of the application by the Authority.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.304 Initial Contact

If the Authority determines that the application meets the requirements of this Part and the Affordable Housing Act, the Staff shall contact the Applicant to discuss what additional information, if any, is required in order to allow Staff to make a recommendation on the application to the Advisory Commission.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.305 Site and Market Study/Rental Analysis

The Authority may conduct a site and market study when the Applicant seeks funds for new construction. The Authority shall conduct a site and market study or rental analysis when the Applicant's proposed rent structure is not in conformity with the rental market rates known to the Authority within a one half mile radius of the Development.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.306 Feasibility Determination (Repealed)

(Source: Repealed at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.307 Staff Recommendation

After reviewing the application, the Staff shall prepare a recommendation for presentation to the Advisory Commission. The Staff shall inform the Advisory Commission, as to each application, whether an application is being recommended for funding, not recommended for funding or rejected due to being ineligible for funding.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.308 Advisory Commission

The Staff will present its recommendation on each application to the Advisory Commission, together with a summary of the application and any other information provided by Staff in response to the Advisory Commission's requests.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.309 Authority Determination

The Staff shall present all positive recommendations for funding of the Advisory Commission to the Members. Monies from the Trust Fund can only be allocated pursuant to resolution by the Members.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.310 Conditional Commitment

After approval of an application by the Members, the Staff shall prepare and deliver to the Applicant a conditional commitment which contains the Authority's commitment to allocate Trust Fund Monies conditioned upon the Applicants meeting the requirements of the conditional commitment and the availability of monies in the Trust Fund. The conditional commitment shall expire, if unfunded, within one year from the date of issuance.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART D: NOTICE

Section 360.401 Notification by Authority

- a) Notice of Allocation
Prior to the presentation of an application to the Members, the Authority shall

give written notice of the proposed allocation to the following persons and agencies:

- 1) the chairman of the county board of the county in which the proposed Development or Single-Family Development is to be located;
- 2) the mayor or other chief executive of the municipality, if any, in which the proposed Development or Single-Family Development is to be located;
- 3) the appropriate Clearinghouses; and
- 4) each member of the General Assembly from the legislative district in which the proposed Development or Single-Family Development is to be located.

If the application does not request Trust Fund Monies for a specific Development or Single-Family Development, the notice will be sent based on the location of the Applicant.

- b) Forms
Notice under this Section shall be made on forms prepared by the Authority.
- c) Contents
The notice shall set forth the name and address of the Applicant; the estimated amount of the proposed allocation; if applicable, the name and address of the proposed Development or Single-Family Development; type of any subsidies; the total number of units; and the type of Development or Single-Family Development (for example, elderly, family, or handicapped).
- d) The notification required by this Section shall be satisfied if another governmental entity provides public notice of an application in a manner acceptable to the Authority.

(Source: Amended at 23 Ill. Reg. 3692, effective March 15, 1999)

Section 360.402 Comments and Responses

- a) Comments
The persons and agencies receiving notice pursuant to Section 360.401 shall have 30 days from the date of mailing to submit written comments to the Applicant.
- b) Applicant's Response
The Applicant shall respond in writing to all comments received under this

Section, as well as to any other written comments received by the Applicant, and shall provide copies of all comments and responses to the Authority.

- c) The Members shall consider all comments received pursuant to this Section when making their determination.

SUBPART E: RECIPIENT

Section 360.501 Eligible Applicants (Repealed)

(Source: Repealed at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.502 Land Trusts

Whenever title to the Real Estate is held in an Illinois land trust, the agreement creating the Trust and establishing the respective rights, powers, and duties of the Trustee and Recipient shall be in a format approved by the Authority. The Authority shall approve such format only if it meets the legal requirement necessary to create a valid Illinois land trust.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.503 Books and Records

The books and records of the Development and the Recipient shall be subject to inspection, examination, and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires for the purpose of determining compliance with the Rules, the Act, the Affordable Housing Act and all contracts and agreements relating to the Program.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.504 Audits

The architectural plans and specifications, apparatuses, devices, books and records, contracts, documents, and other papers relating thereto of the Development or Single-Family Development shall at all times be maintained in reasonable condition for proper audit and shall be subject to inspection, examination, and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires. All audits, certifications, and financial reports which the Recipient is required by contract with the Authority to allow, undertake, or prepare shall be made by an independent certified public accountant acceptable to the Authority.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.505 Annual Financial Report

The Recipient shall furnish the Authority with a complete annual financial report based upon the books and records of the Development and the Recipient, prepared in accordance with Authority requirements, and certified by the Recipient. If the allocation is made to a Recipient to be disbursed or used for more than one Development or Single-family Development, the Authority shall require the Recipient to submit a complete annual financial report prepared in accordance with Authority requirements.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.506 Furnishing Information

The Recipient shall furnish such reports, projections, certifications, analyses, budget, operating report and tax returns as required by applicable Federal, State or local statutes, regulations, or subsidy or assistance programs or by the Authority, and shall furnish specific answers to the Authority's questions about the Recipient's income, assets, liabilities, and contracts and, if applicable, about the administration, operation, maintenance, occupancy, financial soundness, and physical condition of the Development or Single-Family Development.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.507 Standards for Approval of Conveyance

In determining whether to approve and/or impose restrictions on the conveyance, assignment, leasing, mortgaging, pledging or other transfer of the Development or Single-Family Development, and the beneficial interest in and power of direction over the Trust, or any partnership interest or stock ownership interest in the beneficiary of the Trust, the Authority shall grant such approval, with any necessary restrictions, only if the Authority determines that such action will not have an adverse impact upon the financial stability of the Development or Single-Family Development.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART F: LOANS AND GRANTS**Section 360.601 Maximum Loan Amount and Priority**

Loans shall not exceed \$1,250,000 for each Recipient. Priority shall be given to those applications which propose the lowest per unit total cost, lowest monthly housing expense, and longest affordability restrictions.

(Source: Amended at 23 Ill. Reg. 8819, effective July 26, 1999)

Section 360.602 Maximum Grant Amount

Grants by a Recipient to a Very Low-Income Household shall not exceed \$5,000. Grants by a Recipient to a Low-Income Household shall not exceed 3,000. Grants to organizations or corporations shall not exceed \$750,000. Grants are not available to for-profit entities. All other provisions of this Part apply to Grants made by the Authority.

(Source: Amended at 23 Ill. Reg. 8819, effective July 26, 1999)

Section 360.603 Increase Above Maximum Loan or Grant Amount

Nothing contained in this Section shall prohibit the Authority from increasing the amount of a Loan or Grant above the limitations specified herein if the Authority, in its sole discretion, determines that such increase is necessary to meet the purposes of the Affordable Housing Act. In deciding whether to approve a Loan or Grant increase, the Authority shall consider the physical condition of the Development or Single-Family Development, the value of the Development or Single-Family Development as security for the Loan, if applicable, the Authority's ability to provide such Loan or Grant increase, the ability of the Recipient to repay the Loan and Loan increase out of gross income of the Development or Single-Family Development, the financial status of the Development or Single-Family Development and any other relevant factors.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.604 Amortization

The maximum amortization period of a Loan to be made by the Authority under this Program shall not exceed 40 years and may be shorter at the sole discretion of the Authority.

(Source: Amended at 25 Ill. Reg. 2416, effective January 24, 2001)

Section 360.605 Recapture of Assistance

Within each set of Loan documents the Authority shall establish requirements regarding use, occupancy and rent levels as required by the Act and this Part. Such requirements shall provide that if the Recipient violates any of these requirements, such violation shall be deemed a default under the Loan documents.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

Section 360.606 Prepayment of Loan

The Authority may prohibit the prepayment of a Loan for a Development if the Authority determines that such prepayment will result in:

- a) the rents charged at the Development exceeding the limits set forth in Section 360.904(b) of this Part at the time of the prepayment;
- b) the Development being converted to condominiums or cooperatives; or
- c) a conflict with the Authority's goal of providing affordable housing.

The Authority may allow the prepayment of a Loan for a Development if the Authority determines that the prepayment is in the best interest of the community in which the Development is located.

(Source: Amended at 25 Ill. Reg. 12621, effective September 20, 2001)

SUBPART G: CONSTRUCTION

Section 360.701 Design and Construction Standards

Developments or Single-Family Developments financed by Loans under the Program shall be designed and constructed or rehabilitated to conform with applicable Federal, State, and local statutes, regulations, ordinances, standards, and codes, with industry practices in Illinois, and with the requirements of applicable Authority Rules, contracts, agreements, guides, and other documents.

(Source: Amended at 15 Ill. Reg. 17088, effective November 19, 1991)

SUBPART H: MARKETING AND MANAGEMENT

Section 360.801 Marketing and Management

- a) It shall be the responsibility of the Recipient to provide for the marketing and management of the Development or Single-Family Development in a manner satisfactory to the Authority so as to promote the purposes of the Program and the financial stability of the Development or Single-Family Development and to preserve the value of the Authority's security interest in the Development or Single-Family Development.
- b) All marketing and management plans shall be acceptable to the Authority pursuant to Section 360.802.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.802 Marketing and Management Plans

- a) Approval. Before the Authority makes a Loan or Grant under the Program or at such other time as required by the Authority, the Authority may require the Applicant to submit for the Authority's approval plans for the marketing and management of the Development or Single-Family Development. In deciding whether to approve such plans, the Authority shall consider: the purposes of the Program; the provisions of the Tenant Selection Plan or Participant Selection Plan; any applicable Federal and State statutes and regulations; and any other relevant matters.
- b) Contents of Marketing Plan. The marketing plan shall set forth: the policies and procedures to be used in marketing; shall address the qualifications of the marketing agent; the nature of the market; the dates of availability of occupiable units by type and location; the dates of availability and locations of facilities essential to the marketing campaign, including model units, the rental office, and the community building; compliance with all Federal, State and local fair housing requirements; and the promotion of the Development or Single-Family Development, including the use of mass media, public relations, brochures, signs, equipment and furnishings for model units and the rental office, and marketing staff.
- c) Contents of Management Plan. The management plan shall set forth the policies and procedures to be used in the management of the Development and shall, if applicable, address the qualifications of the managing agent, procedures for recruiting and supervising management personnel, and physical maintenance of the Development.
- d) Responsibility. The Recipient shall be responsible for ensuring the marketing agent's and the managing agent's compliance with all applicable Federal, State and local ordinances, regulations, statutes, and Authority Rules, agreements, and requirements.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.803 Maintenance

The Recipient shall maintain the Development or Single-Family Development, or cause the Development or Single-Family Development to be maintained, including without limitation, the dwelling units, commercial facilities, and grounds and equipment related to the Development or Single-Family Development, in a decent, safe, and sanitary condition, in a tenantable and rentable state of repair, and in compliance with applicable Federal, State, and local statutes,

regulations, ordinances, standards and codes.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.804 Cost of Service

The Recipient shall not pay more for administrative, operating, and maintenance expenses than is reasonable given the location and size of the Development or Single-Family Development, the level of administration, operation, and maintenance required by the applicable Authority Rules and agreements, the requirements of the marketing plan, management plan, Participant Selection Plan, Tenant Selection Plan, the uniqueness or quality of available services or supplies, the presence of an emergency or other time constraint, the creditworthiness of suppliers and contractors, and any other relevant factors.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART I: TENANTS AND OCCUPANCY

Section 360.901 Displacement

Recipients shall not cause the permanent displacement of any Tenants in a Development or Single-Family Development that receives Trust Fund Monies for rehabilitation except as provided in Section 360.903 of this Part.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.902 Relocation Plan

- a) Approval. Before the Authority makes a Loan or Grant under the Program or at such other time as required by the Authority, the Authority may require the Applicant to submit, for the Authority's approval, a plan for the temporary relocation or permanent displacement of Tenants. In deciding whether to approve such plans, the Authority shall consider: the purposes of the Program; the provisions of the Tenant Selection Plan or Participant Selection Plan; any applicable Federal and State statutes and regulations; and any other relevant matters.
- b) Benefits Provided For in the Relocation Plan. The benefits provided for in the relocation plan shall be available only to lawful residential Tenants (not owner-occupants or businesses) who are temporarily relocated or permanently displaced following submission of the Applicant's application for Trust Fund Monies or Applicant's control of the site, whichever comes later. The benefits provided for under the relocation plan shall not be available to Tenants if: the Tenant

commences occupancy after the Applicant's application for Trust Fund Monies or Applicant's control of the site, whichever comes later, provided such Tenant receives written notice of the impending rehabilitation and possible relocation or displacement prior to executing the lease; the Tenant has his/her tenancy terminated for violations of the terms and conditions of the lease, a violation of applicable Federal, State or local law, or other good cause; the Tenant is rejected for continued occupancy by the Recipient for reasons stated in the Tenant Selection Plan or Participant Selection Plan; the Tenant moves from the Development or Single-Family Development of his/her own accord or moves from the Development or Single-Family Development after receiving written notice of the impending rehabilitation; or other good cause exists to deny benefits as determined by the Authority. However, Tenants who are rejected by Recipient for continued occupancy in the Development or Single-Family Development for reasons concerning family size restrictions or inability to afford rent levels charged after rehabilitation shall be eligible for permanent displacement benefits under the relocation plan.

- c) Contents of the Relocation Plan. The relocation plan shall set forth the policies and procedures to be used by the Applicant in temporarily relocating or permanently displacing Tenants including, but not limited to: provisions detailing the responsibilities of the Authority, the Applicant and, if applicable, its managing agent; the basic actions to be taken in the relocation program; the acceptance and rejection criteria for determining eligibility for temporary relocation and permanent displacement benefits; the information to be provided to Tenants regarding the relocation program; provisions providing for determining Tenants' relocation needs; a description of relocation benefits; and, provisions detailing the implementation of the relocation plan, including a timetable for activities under the plan.
- d) Enforcement of Relocation Plan. The Recipient is responsible for assuring that all the relocation requirements are met. The Authority, except in those cases where another governmental agency has a regulatory requirement to do so, will monitor the relocation activities to determine compliance with the requirements of this Section. To enforce the provisions of this Section, the Authority may take whatever action is available under this Subpart I or the Loan or Grant documents, including the withholding of any Trust Fund Monies due Recipient.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.903 Tenant Selection Plan and Participant Selection Plan

Before making a Loan, Grant or any other allocation under the Program, the Authority shall approve, where applicable, a Tenant Selection Plan or Participant Selection Plan submitted by

the Applicant and setting forth the income limits for Tenants. In approving the Tenant Selection Plan or Participant Selection Plan, the Authority shall: consider whether the selection procedures will be equitable considering the family size and circumstances of the Tenant; maintain the financial stability of the Development or Single-Family Development; meet the requirements of Section 360.905 of this Part; and comply with the Authority's Rules.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.904 Income and Housing Expense Limits

- a) A Tenant's initial occupancy of a unit held available for rental to Low-Income Households and Very Low-Income Households shall be limited to persons and families initially meeting the income limits set forth in subsection (b) below. If a Tenant meeting income requirements at the time of initial occupancy subsequently fails to continue to meet such requirements, that failure shall not constitute non-compliance by that Tenant.
- b) Determination of Income Limits
 - 1) For all units in a Development, or a Single-Family Development, reserved for Low-Income Households, the income limits shall be equal to 80% of the median family income with adjustments for family size, for the area in which the Development or Single-Family Development is located, as such median income is 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 U.S.C. 1437). The median income of the area of residence shall be attached to each application provided by the Authority and additionally shall be available upon request.
 - 2) For all units in a Development, or a Single-Family Development, reserved for Very Low-Income Households, the income limits shall be equal to 50% of the median family income with adjustments for family size, for the area in which the Development or Single-Family Development is located, as such median income is 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 U.S.C. 1437). The median income of the area of residence shall be attached to each application provided by the Authority and additionally shall be available upon request.
 - 3) The Recipient shall obtain from each prospective Tenant intending to occupy a unit in a Development, or a Single-Family Development, reserved for Low-Income Households and Very Low-Income Households,

and on an annual basis thereafter, a certification of income. The Recipient shall submit such certification to the Authority by mail.

- c) Determination of Housing Expense Limits
- 1) For all units in a Development, or a Single-Family Development, reserved for Low-Income Households, Tenant(s) shall not incur, including a Utility Allowance, monthly housing expenses in excess of 30% of the maximum allowable income as set forth in subsection (b)(1) above. The amount allocated for the Utility Allowance shall be proposed by the Applicant and approved by the Authority.
 - 2) For all units in a Development, or a Single-Family Development, reserved for Very Low-Income Households, Tenant(s) shall not incur, including a Utility Allowance, monthly housing expense in excess of 30% of the maximum allowable income as set forth in subsection (b)(2) above. The amount allocated for the Utility Allowance shall be proposed by the Applicant and approved by the Authority.
 - 3) The Recipient shall submit on an annual basis the rent schedule for the Development reflecting the actual rents being charged at the Development.
 - 4) No person or family shall be required to vacate or move from a unit in a Development or Single-Family Development reserved for Low-Income Households or Very Low-Income Households due to an increase in income exceeding the income limitations contained in this Subpart I. The Recipient may increase the rent for such units, for so long as the person or family's income exceeds such limits, to an amount not to exceed the fair market rent as determined by the Authority, determined by a market study of comparable rental units within a one half mile radius of the Development.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.905 Non-Discrimination

Recipients shall not refuse to accept Tenants for occupancy solely because the Tenant receives governmental rental assistance, nor based on a prospective Tenant's race, national origin, ancestry, religion, creed, sex, age, familial or marital status, disability, or unfavorable military discharge.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

SUBPART J: ENERGY EFFICIENCY

Section 360.1001 Standards

All Developments receiving assistance from the Trust Fund for construction and rehabilitation shall comply with the provisions of 47 Ill. Adm. Code 310. Subpart I.

SUBPART K: CERTIFICATIONS

Section 360.1101 Environmental Assessment

Prior to the making of a Loan or Grant under the Program, the Authority may require the Applicant to conduct or authorize the Authority to cause to be conducted on the Applicant's behalf a Phase I environmental assessment review, certified to the Authority, of the proposed Development undertaken by an environmental consultant approved in advance by the Authority. The Authority may, at its election, commission such assessment. The environmental assessment shall, at a minimum, consist of a review of historic activities on the Real Estate and current conditions of the Real Estate which identify potential violations of applicable environmental laws. If the results of the Phase I environmental assessment disclose the presence of any hazardous substance as described at Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(14)), or any other adverse environmental conditions, as determined by the Authority, then the Authority may deny the application or the funding of the Loan or Grant. The Authority may elect, as a condition to further review of the application or to the making of the Loan or Grant, as the case may be, that the Applicant shall conduct or authorize the Authority to conduct on the Applicant's behalf a Phase II comprehensive environmental assessment certified to the Authority by an environmental consultant approved in advance by the Authority. This Phase II assessment may consist of sampling, lab analysis and an estimate of the magnitude of environmental problems, as well as costs involved in site cleanup. The Applicant shall pay the costs of all such assessments, and the costs may, at the sole discretion of the Authority, be payable out of Loan or Grant proceeds.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

Section 360.1102 Other Laws

All Developments receiving assistance from the Trust Fund for construction and rehabilitation shall comply with the provisions of the Environmental Barriers Act [410 ILCS 25], the Illinois Accessibility Code (71 Ill. Adm. Code 400), the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), Executive Order for the Reduction of Earthquake Hazards (Executive Order 90-2), the Historic Preservation Act [20 ILCS 3410], and all other local, State and Federal laws, as applicable.

(Source: Amended at 18 Ill. Reg. 8663, effective May 25, 1994)

