

99-346 MAINE STATE HOUSING AUTHORITY

Chapter 30: SINGLE FAMILY HOME IMPROVEMENT LOAN PROGRAMS

Summary: The Maine State Housing Authority may offer mortgage financing for the improvement of single family housing for persons of low or moderate income, including without limitation, rehabilitation, home replacement, emergency repairs, lead paint mitigation, accessibility improvements, and energy efficiency improvements. This rule governs program design, eligibility standards, mortgage standards, and construction standards for mortgage financing of improvements to single family homes.

1. Definitions.

- A. “Act” means the Maine Housing Authorities Act, 30-A M.R.S.A. §4701, *et seq.*
- B. “Applicant” means the individual, municipality or entity applying for funds governed by this rule. Depending on the Program design, an Applicant will be (i) a Low or Moderate Income Person who owns and occupies a Single Family Home or (ii) a party who seeks to provide administrative functions or other services for the benefit of Low or Moderate Income Persons who own and occupy a Single Family Home.
- C. “Beneficiary” means a Low or Moderate Income Person who owns and occupies a Single Family Home improved with funds governed by this rule.
- D. “Director” means the director of MSHA.
- E. “Funding Commitment” means MSHA’s official notification to an Applicant indicating that its application has been approved and stating the terms of a prospective financing.
- F. “General Mortgage Purchase Bond Resolution” means a resolution adopted by MSHA on February 4, 1972, as amended and supplemented, which authorizes MSHA to issue bonds for the purchase of first lien single-family and multifamily mortgages.
- G. “Governmental Entity” means a state or federal agency or instrumentality.
- H. “HOME Investment Partnerships Act” means Title II of the Cranston-Gonzales National Affordable Housing Act, as amended, 42 U.S.C. 12701, *et seq.*, and the HOME Investment Partnerships Program Final Rule, 24 C.F.R. Part 92, published

September 16, 1996 with May 28, 1997 technical corrections and August 22, 1997 amendments.

- I. “Low or Moderate Income Persons” means persons or families whose income is lower than limits established by MSHA for a particular Program, based on criteria determined by MSHA which may include without limitation market conditions, interest rates, availability of housing, geography, family size, and need.
- J. “MSHA” means the Maine State Housing Authority, a body corporate and politic and an instrumentality of the State of Maine, and its agents, contractors, and employees duly authorized to act on its behalf.
- K. “Program” means an offering of mortgage financing in the form of amortizing debt, forgivable loans, grants, or a combination of the foregoing available to prospective eligible Applicants and Beneficiaries on certain terms and for certain purposes determined by MSHA pursuant to this rule.
- L. “Program Guide” means the written procedural and administrative guide for a particular Program governed by the terms and conditions of this rule.
- M. “Project” means a Single Family Home owned by a Low or Moderate Income Person and improved or to be improved with funds pursuant to a Program.
- N. “Recipient” means an Applicant who has received a Funding Commitment.
- O. “Single Family Home” means a one, two, three or four unit owner-occupied residence.
- P. “State Housing Bond” means the general fund bond issued by the State of Maine pursuant to Private and Special Laws, 2001, Chapter 35, in the amount of \$12,000,000 to address the affordable housing crisis in the State.

2. **Program Design.**

- A. **Allocation.** MSHA may allocate funds for the improvement of Single Family Homes of Low or Moderate Income Persons in accordance with applicable federal and state laws.
- B. **Conditions.** Based upon such allocation, MSHA shall make funds available for use on Single Family Homes of Low or Moderate Income Persons on terms and conditions established by MSHA consistent with applicable federal and state laws.
- C. **Programs.** MSHA shall design and offer Programs based upon available funds, restrictions attached to such funds, and State housing needs.

- D. **Program Guides.** MSHA shall publish a Program Guide with respect to each Program and shall distribute the Program Guide to parties who have expressed an interest to MSHA in connection with the financing available under the Program, to parties MSHA selects for marketing the particular Program, and upon request. MSHA may make the Program Guide available on its web site.
- E. **Governmental Entities.** MSHA may cooperate with and rely upon other Governmental Entities in the design and delivery of Programs consistent with this Rule.
3. **Funding.**
- A. **Processing of Applications.** MSHA may process applications on a first come first served basis or set an application due date described in the Program Guide for submission for review by a scoring committee.
- B. **Selection for Funding.** The Director shall retain final discretion as to whether or not to offer financing to a particular Applicant.
- C. **Availability of Funds.** Financing is always subject to the availability of funds.
4. **Sources of Funds.** Funds from the following sources may be made available under this rule:
- taxable bonds issued by MSHA pursuant to 30-A M.R.S.A. §4871 *et seq.* and the refunding of such taxable bonds;
 - tax-exempt mortgage revenue bonds issued by MSHA pursuant to 30-A M.R.S.A. §4871 *et seq.* and the Internal Revenue Code and the refunding of tax-exempt bonds;
 - Housing Opportunities for Maine Fund established pursuant to 30-A M.R.S.A. §4851 *et seq.*;
 - HOME Investment Partnerships Act funds;
 - State Housing Bond;
 - other funds.

5. **Types of Programs.** MSHA may offer a Program for any of the following or any combination of the following:
 - A. **Single Family Home Rehabilitation.** Programs may provide financing to make non-luxury improvements to Single Family Homes of Low or Moderate Income Persons.
 - B. **Single Family Home Replacement.** Programs may finance the replacement of Single Family Homes of Low or Moderate Income Persons with mobile, modular, or other Single Family Homes.
 - C. **Emergency Repairs.** Programs may offer financing for improvements which need to be made immediately for the safety and well-being of residents of Single Family Homes of Low or Moderate Income Persons.
 - D. **Lead Paint Mitigation.** Programs may offer financing for the reduction of lead hazards in Single Family Homes of Low or Moderate Income Persons.
 - E. **Accessibility Improvements.** Programs may offer financing for accessibility rehabilitation to Single Family Homes of Low or Moderate Income Persons which will improve the quality of life of an existing resident who has a physical disability.
 - F. **Energy Programs.** Programs may finance improvements to the energy efficiency of Single Family Homes of Low or Moderate Income Persons.
6. **Low-income and Use Restrictions.**
 - A. **Low-income Restrictions.** Projects shall benefit Low or Moderate Income Persons as required by applicable laws, funding source restrictions, applicable Program Guides, and the Recipient's commitments.
 - B. **Assurance of Continued Restrictions.** MSHA may require certifications, reports, or other assurances to ensure compliance with affordability restrictions, including without limitation, an agreement to be recorded in the appropriate registry of deeds which will obligate Project owners and their successors to comply with the restrictions for a number of years.
7. **Eligible Applicants.** To be eligible for funding, Applicants must satisfy the following:
 - A. **Funding Source Restrictions.** Applicants and Beneficiaries must satisfy any criteria for qualification for receipt of funding attached by law or regulation to the funds the Applicant seeks.

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- B. **Program Qualifications.** Applicants and Beneficiaries must suit the objectives of the Program under which they are applying as set forth in the applicable Program Guide.
 - C. **Debarment.** A party may not provide rehabilitation work for Programs if that party (i) is debarred, suspended, or voluntarily excluded from any federal programs; (ii) has ever had a professional license to provide the nature of services the party seeks to provide in the Project suspended or revoked; or (iii) is debarred, suspended, or voluntarily excluded from MSHA programs.
 - D. **Conflict of Interest.** Applicants shall disclose their current and recent financial, business, professional, and family relationships and associations with any MSHA employee or commissioner and comply with any restrictions imposed by MSHA on account of conflict of interest concerns.
 - E. **Identity of interest.** Applicants shall disclose the nature of the relationship between them and any of their principals, proposed sellers, contractors, suppliers, and service providers. MSHA may, at its discretion, impose restrictions, or require independent appraisals, or other third party verifications on account of identity of interest concerns.
8. **Amortizing Debt.** When MSHA financing includes amortizing debt payable to MSHA, the financing shall be subject to the following:
- A. **Underwriting Standards.** Program Guides shall set forth underwriting criteria which may include, without limitation, debt to income ratios, credit history, assets, and employment stability.
 - B. **Appraisals.** MSHA may require an appraisal in a form satisfactory to MSHA to determine whether there is adequate value in a Project and may require Applicants to reimburse MSHA for appraisal costs.
9. **Financing Standards.** Financing of Projects will be subject to the following:
- A. **Documents Evidencing Obligations of Recipients and Beneficiaries.** Recipients and Beneficiaries shall execute the documents MSHA determines are necessary or in its best interest including, without limitation and as applicable, affidavits; grant agreements; promissory notes; mortgage and security agreements; financial assistance agreements; declarations of covenants, conditions, and restrictions; financing statements; regulatory agreements; escrow agreements; and certifications.

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- B. **Fees.** MSHA may limit Recipient, consultant, and other fees that MSHA finds in its discretion are excessive or inappropriate.
 - C. **Loan Insurance.** MSHA may require private mortgage insurance or loan insurance or guarantees from the federal government.
 - D. **Property Insurance.** MSHA may require evidence of fire, hazard, extended coverage, and liability insurance acceptable to MSHA and such other insurance as MSHA in its discretion may reasonably require, all containing the standard Maine mortgage clause with loss payable to MSHA.
 - E. **Title Insurance.** MSHA may require a lender's title insurance policy or title search.
 - F. **MSHA Legal Opinion.** MSHA may require a legal opinion regarding the Applicant's legal status and authority to receive the financing.
 - G. **Escrows.** Programs may require the establishment of rehabilitation or other escrows in an amount and on terms established by MSHA.
 - H. **Prepayment.** MSHA may prohibit prepayment of loans, impose restrictions on prepayments, or impose charges in the event of prepayments in compliance with applicable laws.
 - I. **Fair Housing and Accessibility.** An Applicant or Recipient may be required to certify to its familiarity and compliance with the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988; the Maine Human Rights Act, Subchapters IV and V; Section 504 of the Rehabilitation Act of 1973; and Title III of the Americans with Disabilities Act of 1990.
 - J. **Fees.** MSHA may charge application fees, commitment fees, financing fees, and escrow administration fees provided such fees are described in the applicable Program Guide. MSHA may also pay fees to a Recipient or another party for administration of Program requirements in accordance with a Program Guide.
 - K. **Other Requirements.** Recipients and Beneficiaries shall satisfy such other requirements as MSHA, in its discretion, determines are prudent.

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10. **Selection criteria.** MSHA will set forth selection and approval criteria germane to a particular Program in the applicable Program Guide. Such criteria may include but are not limited to the following:
- how well an application meets the objectives of the Program;
 - the use of resources other than MSHA's resources;
 - the reasonableness of costs;
 - the efficiency of the use of proposed subsidy;
 - financial feasibility;
 - geographic distribution;
 - income targeting;
 - the projected number of units to be rehabilitated;
 - community preference and support;
 - support of a state agency;
 - needs;
 - the capacity of the Applicant to perform, including without limitation capacity and experience in underwriting, Single Family Home improvement, marketing, serving Low or Moderate Income Persons, and administration of MSHA programs or other housing programs;
 - the degree to which funds will be recycled for continued program activities; and
 - other criteria established by MSHA.
11. **Relocation.** Projects are subject to the following relocation standards:
- A. **Federally-assisted Projects.** Projects assisted with federal funds shall comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, 42 U.S.C. § 4601 *et seq.*, and the Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs Final Rule, 49 C.F.R. 24, published March 2, 1989, as amended.

- B. **HOME-assisted Developments.** In addition to complying with Section 11.A. above, Projects assisted with HOME Investment Partnerships Act, Community Development Block Grant or Urban Development Action Grant funds shall comply with the requirements of §104(d) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5304(d)(4), and the Displacement Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Program Final Rule, 24 C.F.R. 42, published November 4, 1996, as amended.

12. **Rehabilitation Requirements.**

- A. **Approval of Construction Documents and Budget.** Funding for rehabilitation may be subject to MSHA's review of the drawings, specifications, construction contract, and budget for reasonableness and completeness. MSHA may require a competitive bidding process for any general contractors or subcontractors.
- B. **Women-owned and Minority-owned Business Enterprises.** MSHA may require Recipients to promote the use of women-owned and minority-owned business by at a minimum: (i) placing qualified women-owned and minority-owned business enterprises on solicitation lists; (ii) assuring that women-owned and minority-owned business enterprises are solicited whenever they are potential sources; (iii) dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by women-owned and minority-owned business enterprises; and (iv) document efforts used to encourage the use of and contracting with women-owned and minority-owned business enterprises.
- C. **Codes and Standards.** All elements of a Project shall meet all applicable federal, state, and local codes, ordinances, and regulations in addition to MSHA requirements.
- D. **Interpretation of Codes and Standards.** If there is a question in interpretation of codes or standards, the construction or rehabilitation shall conform to MSHA's interpretation of such codes and standards.
- E. **Inspections.** Recipients and Beneficiaries shall permit MSHA to inspect Projects as it deems reasonably necessary as a prudent lending institution and a responsible public agency.
- F. **Other Requirements.** Recipients and Beneficiaries shall comply with all requirements MSHA, in its discretion, determines are prudent.

13. **Rule Limitations.**

- A. **Other Laws.** If this rule conflicts with any provision of federal or state law, the federal or state law shall control.

 - B. **Waivers.** Upon determination of good cause, the Director of MSHA or the Director's designee may, subject to statutory limitations, waive any provision of this rule. Each waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.
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STATUTORY AUTHORITY: 30-A MRSA §§4722(1) and 4741(1)

EFFECTIVE DATE:

October 20, 2002