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Proposed Changes to New Jersey Housing and Mortgage Finance Agency Regulations

The New Jersey Housing and Mortgage Finance Agency (NJHMFA), which provides financing as a mortgage lender for affordable housing projects in New Jersey, has recently promulgated proposed changes to the NJHMFA regulations, including but not limited to:

- Eliminating the requirement that upon any transfer of an applicable ownership interest in NJHMFA-financed housing projects, 3.25 percent of the purchase price be paid into the Portfolio Reserve Account (PRA).

- Deleting certain provisions relating to limited partnerships formed pursuant to the Limited Dividend Law (LD Law), which has been repealed, and revising certain provisions to describe the permissible uses of and procedure for accessing any funds remaining and accruing in certain accounts related to the sale of NJHMFA-financed housing projects by nonprofit sponsors to limited partnerships formed pursuant to the LD Law.

- Adding language recognizing that entities other than partnerships and corporations may be or have been involved in sales and syndication transactions.

- Terminating certain obsolete programs, including (a) a program providing an alternative means by which sponsors of housing projects without federal project-based rent subsidies may implement rent increases; (b) a program involving the NJHMFA making loans to institutional lenders in order for such lenders to make single-family mortgage loans; (c) a program under which eligible buyers could execute lease-purchase agreements, enabling them to lease residential units with an option to purchase such units following the expiration of the lease term; and (d) the housing investment sales program, whereby for-profit housing sponsors that were formed pursuant to the LD Law could realize an enhanced return (to be shared with the NJHMFA) upon the sale of an NJHMFA-financed housing project to a housing sponsor that agrees to preserve for any new transactions the low- or moderate-income status of the project for an additional 35 years beyond the original mortgage term.

- Correcting a typographical error in the regulations such that the resulting corrected provision will state that monthly fees for income-restricted assisted-living residence units must be limited to 80 percent of the applicable U.S. Department of Housing and Urban Development (HUD) median income level.

- Repealing language requiring the Affirmative Fair Housing Marketing Plan (AFHMP) and replacing it with an abbreviated version incorporating the HUD form of AFHMP.

Elimination of the required payment of 3.25 percent of the purchase price upon any transfer of an applicable ownership interest in NJHMFA-financed housing projects to the PRA is anticipated to stimulate investment in existing affordable housing projects in the state. Although NJHMFA-financed housing projects that are experiencing financial difficulties will no longer have the PRA as a source of financial assistance, the NJHMFA could make additional loans to such projects to mitigate the elimination of the PRA. Additionally, replacement of the AFHMP with the HUD form of AFHMP may provide a minor administrative cost savings to some project sponsors.

Comments for the proposed changes to the NJHMFA regulations may be submitted until August 18, 2017, to:

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Should you have any questions concerning these proposed regulations or affordable housing issues in general, please contact Peter J. Wolfson or Kate A. Coffey.

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