



REGULATORY INTERPRETATION 1999-RI-06

Date: February 26, 1999

Subject: Use of a Rider in Connection With Affordable Housing Program Projects And Nonliability for Repayment of Affordable Housing Program Subsidies

Request Summary:

A Federal Home Loan Bank (FHLBank) member has requested that the Federal Housing Finance Board (Finance Board) determine whether it may use a rider to a deed of trust in connection with Affordable Housing Program (AHP) projects and, if yes, whether the member will be liable for repayment of the AHP subsidies if it is unable to foreclose on the projects or seek repayment of the AHP subsidies from the borrowers because of the restrictions and limitations in the rider.

Analysis and Interpretation:

1. The FHLBank Member May Use the Rider for the AHP Projects

Finance Board staff has determined that the FHLBank member may use the Rider to Deed of Trust (Rider) for the AHP projects, subject to the member's receipt of approval from the U.S. Department of Housing and Urban Development (HUD) to use the Rider for the projects. Further, Finance Board staff has determined that the Rider is consistent with the Finance Board's AHP regulation, 12 C.F.R. part 960.

2. If Certain Conditions Are Met, the FHLBank Member Will Not Be Liable For Repayment of the AHP Subsidies

Finance Board staff has determined that, in the unlikely event of a default or other noncompliance with the requirements of the AHP, and assuming that the member is not itself the cause of the default or other noncompliance, if the member satisfies the provisions of the Rider, and makes reasonable efforts to recover the AHP subsidies from the projects' sponsors or owners where that recovery cannot be obtained from the projects, the member would not be liable for repayment of the subsidies if its efforts are unavailing because of the restrictions and limitations in the Rider.

If you have any additional questions, please call Deborah F. Silberman, General Counsel at (202) 408-2570.

This is a Finance Board regulatory interpretation within the meaning of the Procedures for Requests and Applications adopted by the Board of Directors of the Finance Board pursuant to Resolution Number 98-51, dated October 28, 1998. The regulatory guidance set forth herein may be relied upon subject to modification or rescission by action of the Board of Directors of the Finance Board.

