



REGULATORY & HOUSING POLICY

DAVID A. CROWE

Senior Staff Vice President

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Federal Housing Finance Board
1625 Eye Street, NW
Washington, DC 20006
ATTENTION: Public Comments

**Subject: Proposed Rule: Affordable Housing Program Amendments
Docket Number 2008-09; RIN 3069-AB35**

Dear Sir or Madam,

On behalf of the 235,000 members of the National Association of Home Builders (NAHB), I welcome the opportunity to respond to the request for comment, issued by the Federal Housing Finance Board (Board) regarding proposed amendments (Proposal) to the Federal Home Loan Bank Affordable Housing Program (AHP). The amendments would allow the Federal Home Loan Banks (FHLBanks) to establish AHP homeownership set-aside programs for the purpose of refinancing or restructuring eligible households' subprime or non-traditional mortgage loans into affordable, long-term fixed-rate mortgages.

Background

The public policy mission of the Federal Home Loan Bank System was expanded with The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which established an AHP. By statute, each of the 12 FHLBanks is required to contribute at least 10 percent of its previous year's net earnings to the AHP, subject to a minimum annual combined FHLBank System contribution of \$100 million, in the form of AHP subsidies. Subsidies are allocated through FHLBank member institutions through grants or below market-rate loans

By statute, AHP subsidies must be used to assist homeownership for families with incomes at or below 80 percent of the area median income or to finance the purchase, construction, or rehabilitation of rental housing in which at least 20 percent of the units will be occupied by and affordable for households with incomes at or below 50 percent of the area median income.

FHLBank Programs

The FHLBanks provide assistance in two ways: (1) competitive application programs or CAP; and (2) AHP set-asides. The majority of the FHLBanks AHP subsidy is made available through the CAP. AHP regulations *require* that each FHLBank establish a CAP under which

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members submit applications on behalf of one or more sponsors of eligible housing projects and these projects must meet certain regulatory criteria to be eligible for assistance.

In addition to CAP, in 1995 the Board *authorized* the FHLBanks, at their discretion, to set aside a portion of annual required AHP contributions to establish programs for the purpose of promoting homeownership for low- or moderate-income households. Set-aside funds may be used for down-payment assistance, closing costs, or counseling costs in connection with the purchase or rehabilitation of owner-occupied units. A FHLBank may allocate up to the greater of \$4 million or 35 percent of its AHP funds each year for non-competitive homeownership set-aside purposes. At least one-third of these funds must be used to assist first-time home buyers.

Summary of Amendments to Affordable Housing Regulations

The Board is proposing to authorize the FHLBanks to establish AHP homeownership set-asides for the purpose of refinancing or restructuring low- or moderate-income borrowers' non-traditional and subprime mortgage loans. The new authority, which is limited to mortgages held or originated by FHLBank member institutions, would expire on June 30, 2011. The requirements of the proposed rule are generally the same as those specifically authorized for the San Francisco FHLBank on January 15, 2008. The Board waived certain provisions of the AHP regulation to permit the San Francisco FHLBank to use the AHP subsidy to allow its members to help eligible households to refinance or restructure their existing residential mortgage loans. The proposed rule, if adopted, would allow all FHLBanks to engage in the newly authorized set-aside program.

The proposed rule was developed in response to the continuing credit crisis and the distress in the owner-occupied housing market. Many borrowers are now unable to sell their homes or refinance to get relief from unaffordable mortgages. The proposed set-aside program is designed to more directly help members assist households at risk of foreclosure by providing more affordable fixed-rate, fully amortizing first mortgages with a term of at least 30 years.

NAHB Position

NAHB recognizes that distress in the mortgage markets has made it difficult for many borrowers to sustain homeownership, especially for those who financed their home purchase with non-traditional or subprime mortgages. NAHB generally supports foreclosure prevention efforts that would keep qualifying borrowers in their homes by refinancing or restructuring loans that will have more reasonable terms. Successful foreclosure mitigation efforts will reduce foreclosures, slow downward pressure on home prices and absorb unsold inventories of single family homes. The proposed change to the AHP program will provide another tool for foreclosure prevention. NAHB, therefore, supports the temporary use of FHLBank AHP homeownership funds for foreclosure prevention and mitigation efforts. Our support for the

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proposal, however, is conditioned on the premise that the programs are conducted in such a fashion so as to not diminish the FHLBanks' subsidies for affordable housing production.

NAHB is concerned that the new AHP regulations could create additional demand on limited affordable housing resources and possibly reduce funding availability through the CAP if FHLBanks were to increase their set-aside percentages. NAHB believes it is important that the proposal not encroach on the operations of the CAP. The CAP is a key source of liquidity for Low Income Housing Tax Credit projects, which provide rental units affordable to low-income households. This program has been very successful and the majority of the FHLBanks affordable housing resources have been allocated to this important program.

NAHB recommends that each FHLBank continue to *maintain* its current homeownership set-aside percentage and to alter the mix of projects within the set-aside program if they decide to provide subsidies for member loan refinancings and restructurings under this Proposal. In this way, funding through the CAP will not decline because of an *increase* in the percentage allocation to the homeownership set-aside program. NAHB also believes the set-aside program limitation (the greater of \$4 million or 35 percent of available AHP funds) should not be increased, since such a change necessarily would be at the expense of the CAP.

Additional Issues for Consideration

The Board requests comments on many potential variations to the proposed temporary set-aside program that, if undertaken, could change the scope and impact of the AHP. The Board also has requested comments on many technical and operational aspects of the proposal, such as:

- Should the AHP set-aside be used to refinance or restructure loans in a more targeted fashion, located within neighborhoods and communities that may be at higher risk for defaults and foreclosures?
- Should the Board allow a new loan under the proposed program to be an ARM if the rate is capped and the total household debt-to-income ratio continues to be 45 percent or less of the fully-indexed interest rate?
- Should the Board allow assistance for borrowers who are more than 30 days delinquent prior to the initial interest rate reset?

NAHB believes the individual FHLBanks should be provided discretion on details such as those listed above, since they are in the best position to determine which formulas are best suited to reduce mortgage foreclosures in their respective Districts. NAHB respectfully recommends that the Board not be overly prescriptive in developing program requirements. Decisions on many of the administrative and operational elements of the program should be left to the FHLBanks. They are well positioned to work with member banks to maximize available resources for the purpose of assisting low-income borrowers avoid foreclosure.

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NAHB's comments on some of the broader policy issues raised in the Proposal follow.

Board Request for Comment: Is it generally appropriate for the AHP to provide subsidies for refinancing or restructuring existing owner-occupied mortgage loans and should it be limited to specific circumstances, such as for assisting low- and moderate-income households with subprime or non-traditional mortgages?

NAHB Response: As stated earlier, NAHB supports the proposal to temporarily allow FHLBanks to use AHP homeownership set-aside funds to support member foreclosure prevention efforts. Again, NAHB believes that it should be left to the judgment of the FHLBanks as to which households should qualify for such assistance, as long as the recipients are households with incomes not greater than 80 percent of the area median income, consistent with AHP statutory provisions.

Board Request for Comment: Should a FHLBank be permitted to allocate, to a refinancing or restructuring program, a portion of its annual AHP contribution in excess of the maximum permitted for allocation to the homeownership set-aside programs?

NAHB Response: NAHB believes that the limits on the set-aside program should remain in tact so as not to encroach on the CAP. As noted, NAHB believes that the CAP has been a very successful program for the FHLBanks and has contributed to the supply of affordable rental housing in a significant way. In addition, NAHB urges that the current percentage of each FHLBank's set-aside program be maintained so that the addition of the proposed program will not diminish resources devoted to CAP. As an example, if a particular FHLBank currently allocates less than the 35 percent maximum for a homeownership set-aside, NAHB believes that resources for foreclosure prevention efforts should come from that pool rather than through increasing the set-aside percentage.

Board Request for Comment: Should loans eligible for refinancing or restructuring with AHP assistance be subject to a maximum loan limit? If a price cap is imposed, is it more appropriate to use the temporary limit from the Economic Stimulus Package as a cap?

NAHB Response: NAHB believes the maximum loan limit should be the current conforming loan limit. The limit should also encompass any increases, temporary or otherwise, for high cost areas, such as the limit of 125 percent of the area median home price up to \$729,750 established in the Economic Stimulus Act of 2008.

Board Request for Comment: Should the Board continue to require that the FHLBanks, using set-aside authority under the proposal, meet the one-third annual threshold that provides assistance solely to first-time homebuyers?

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NAHB Response: NAHB supports set-asides for first time homebuyers. The current requirements for the set-aside program have proven successful and the annual threshold should not be modified or eliminated.

Conclusion

Thank you again for the opportunity to comment on the Board's proposed amendments to the FHLBank Affordable Housing Program regulations. AHP funding has played a critical role in increasing the supply of affordable housing for both homeowners and renters. NAHB supports the Board's proposal to provide the FHLBanks the option to use AHP homeownership set-aside funds to assist member mortgage foreclosure prevention efforts, as long as such activities do not reduce the amount of housing production financing provided through the CAP.

Please contact John Dimitri, NAHB's Director, Financial Institutions and Capital Markets, at 202-266-8529, if you have any questions concerning this letter.

Respectfully,



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Staff Senior Vice President
Regulatory & Housing Policy

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