

TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY

CHAPTER 15. SINGLE FAMILY MORTGAGE LOAN PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

330:15-1-1. Purpose.

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S., Section 250, et seq. OHFA shall, from time to time as approved by OHFA Trustees, in furtherance of its efforts to provide safe, sanitary and decent housing, implement programs to assist qualified persons in Oklahoma to obtain financing for single family, owner-occupied residences. Such programs may be financed from the proceeds of revenue bonds, notes, mortgage backed securities or other obligations sold by OHFA either on a taxable or tax-exempt basis, or from other sources of money available to OHFA. Implementation of such programs and the issuance of any debt obligations to provide financing therefor which are intended to be tax-exempt shall be subject to provisions of the United States Internal Revenue Code of 1986, as amended and supplemented (referred to herein as the "Code"), and any rules or regulations promulgated or adopted by reference thereunder and the Title 60 Oklahoma Statutes, ~~Supplement 1987~~2011, Sections 175.1 through 175.54 and 176 through 180.4, as amended and supplemented, and such other provisions of Oklahoma and federal law and the provisions of the Trust Indenture creating the OHFA as may be applicable to such programs and the financing thereof. Programs shall be of general applicability to eligible borrowers throughout Oklahoma insofar as possible, provided that from time to time OHFA may implement programs to benefit one or more localized areas within the state depending on a showing of need therefor. The structure and details of any specific program shall be determined as needed by the Trustees and/or Staff of OHFA on a case-by-case basis.

330:15-1-2. Authority.

The Agency is authorized by its Trust Indenture, Article IV, Sections (2), (3), (4), (5), (8), (14), and Article VII, Sections (7), (9), (13), (17), and (19) through (43), to plan and implement single family mortgage loan programs to provide financing by various means for the construction, acquisition, purchase and/or rehabilitation of single family owner-occupied dwellings located within the State. Specific reference should be made to the Agency's current Trust Indenture for the exact provisions for the specific scope of authorization. The Agency is authorized by Title 60, Oklahoma Statutes ~~Supp. 1987~~2011 Sections 176, et seq., as amended, to issue its evidences of indebtedness for the purpose of financing housing or housing programs as an authorized and proper public function for public trusts.

330:15-1-3. Definitions.

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“**Act**” means Title 60 Oklahoma Statutes, ~~Supplement 1987~~2011, Sections 175.1-175.54 and 176-180.4, as amended and supplemented.

“**Allocation**” means, with respect to each participant, the aggregate principal amount of mortgage loans that participant has offered and agreed to originate and service, which offer OHFA has accepted, plus any additional amounts OHFA has allocated to said participant, less any amounts OHFA has reallocated to another participant.

“**APA**” means the Administrative Procedures Act as adopted in Oklahoma, codified at 75 Oklahoma Statutes, Supplement 1987, Sections 250, et seq.

“**Applicant**” means a person who applies for approval to become a borrower under a program.

“**Bond**” means any obligation of OHFA, including bonds, notes or any other form of indebtedness incurred to finance a program.

“**Bond indenture**” means ~~the any bond~~ indenture between OHFA as issuer and the Trustee authorizing and securing bonds used to finance a program, and all amendments or supplements thereto.

“**Borrower**” means any person required to repay the debt obligation created pursuant to a mortgage loan.

“**CAP allocation**” means the State Ceiling Allocation prescribed by the Code and as apportioned pursuant to 62 O.S. (1987) S 695.14, et seq., as amended and supplemented.

“**Code**” means the United States Internal Revenue Code of 1986, as amended and supplemented, and any rules or regulations promulgated or adopted by reference thereunder.

“**Issuer**” or “**Agency**” means the Oklahoma Housing Finance Agency.

“**Mortgage**” means the written instrument creating an interest in real property and premises, including any improvements and appurtenances thereto, and which secures a mortgage loan.

“**Mortgage loan**” or “**Mortgage loans**” means the mortgage financing of the acquisition, alterations to, repair, rehabilitation or improvements on single family dwellings (which alterations, repairs, rehabilitation and/or other improvements substantially protect or improve basic livability of the property), which financing is evidenced by the mortgage note(s) and secured by the related mortgage(s), and which are made to borrowers pursuant to the terms and conditions of a program.

“**Mortgage note**” means the promissory note executed by a borrower to evidence such borrower's obligation to repay the mortgage loan.

“**OHFA**” means the Oklahoma Housing Finance Agency.

“**Origination**” means the identification of qualified mortgage loans for provision of financing by OHFA pursuant to the provisions of a program.

“~~Participating lender~~**Participating Lender**” means any state bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution, or holding company thereof, or governmental agency which provides services for, or otherwise aids in, the financing of single family residences by means of mortgage loans and which is approved by OHFA respecting participation in a program.

“**Program**” means a single family ~~mortgage-home ownership~~ program of OHFA instituted for the purpose of providing funds to low and moderate income residents of the State of Oklahoma for the acquisition, alteration, rehabilitation, repair, or improvement of single family, owner-occupied housing.

“~~Program documents~~**Program Documents**” means all contracts, agreements, certificates, affidavits and exhibits or similar instruments utilized in connection with a program, as may be required from time to time, whatsoever their title, including, but not limited to, the invitation, the offer to originate, notice of acceptance by OHFA, the master mortgage origination agreement, the bond indenture, the bond notice of acceptance, the interest rate notice and the official statement, to the extent deemed applicable by the Trustees and/or Staff of OHFA.

“**Resident**” means any person who, at the time of closing of a mortgage loan, permanently resides within the State of Oklahoma, and intends to use the single family dwelling as his or her principal place of residence.

“**Resolution**” means the resolution, motion, or other official action of OHFA duly taken by not less than a majority vote of its Trustees at an open public meeting of Trustees.

“**Servicing**” means the administration, collection, and other duties specified in the ~~program documents~~**Program Documents** which may be performed by a ~~participating lender~~**Participating Lender** respecting the mortgage loans.

“**Single family dwelling**” means a structure, including all fixtures and appurtenances thereto, located in the State, together with the land upon which it is located, designed for and providing residential housing

for one family. A single family dwelling must be owner-occupied, except as otherwise provided by these rules.

“Staff” means the staff of OHFA.

“State” means the State of Oklahoma.

“Trust indenture” means the Trust Indenture dated as of May 1, 1975, as amended, creating the issuer.

“Trustee” means the bank designated by the issuer and appointed under the bond indenture or any successor thereto, as the custodian of funds derived from the issuance of the bonds of a program, and performing such other duties as may be designated in the bond indenture.

330:15-1-4. No discrimination.

No application for a mortgage loan shall be arbitrarily rejected for residential properties within a specified geographical area of the State because of the location and/or age of the property, or, in the case of a proposed mortgagor, arbitrarily vary the terms of a loan or the application requirements or procedures therefor, or reject a mortgage loan because of the race, color, religion, national origin, ethnic background, age, sex, marital status or disability of any of the applicant(s) for a mortgage loan under a program.

SUBCHAPTER 3. SINGLE FAMILY MORTGAGE LOAN PROGRAMS

330:15-3-1. Interest rate and loan structure.

OHFA shall endeavor to develop programs in which the interest rate and/or points charged to the borrower will be competitive with, or lower in cost than private financing then reasonably available to the categories of qualifying borrowers to be served. Depending on the particular program, loans may be either at a fixed or variable rate, may be secured by a first lien or a second lien mortgage, may be for acquisition, construction or substantial rehabilitation, may be for a term of up to thirty-five (35) years, and, to the extent permitted by bond marketing and other applicable constraints, may be assumable by subsequent qualifying borrowers. Each of these factors shall be determined and announced by OHFA Trustees prior to implementation of the particular program. ~~Except to the extent permitted by applicable law, loans shall not be made for the purpose of refinancing existing mortgages.~~

330:15-3-2. Total volume of programs to be set by Trustees.

Each program planned, authorized and implemented by OHFA shall be limited in total dollar amount by resolution of the Trustees. Such volume limitation may be changed from time to time by resolution of the Trustees until finalization of the program. In all cases, the volume limitation provided for by the resolution of the Trustees shall be consistent with any independent limitation upon the size of the program by reason of any applicable CAP allocation, or similar federal or state limitation.

330:15-3-3. Security for each loan.

Each program shall provide that the financing to be provided to the borrower shall be a first mortgage loan upon the borrower's single family dwelling, superior in lien priority to all other encumbrances, and shall not be for a second or other mortgage inferior to any other lien or encumbrance, except in programs specifically authorizing and providing for second mortgages, or except for easements, rights of way, or other similar encumbrances not interfering with the use and enjoyment of the single family dwelling as such, and which do not adversely impact upon the value of the single family dwelling.

330:15-3-4. Single family dwellings only.

Only ~~single family~~qualifying dwellings shall be eligible for mortgage loan financing under any program instituted by OHFA under this Chapter.

330:15-3-5. Loan purposes.

The purposes for which a borrower may obtain a mortgage loan under any program shall be limited to the following purposes:

- (1) Acquisition by the borrower of the single family dwelling to be financed by a mortgage loan under the program.
- (2) Replacement of construction period loans, bridge loans or similar temporary initial financing for the acquisition by borrower of the single family dwelling to be financed by a mortgage loan under the program.
- (3) Not for general refinancing of any existing loan or to pull out owners equity in the single family dwelling proposed to be mortgaged under the program.
- (4) Special programs for rehabilitation, home improvement, home equity loans, and other special purpose programs, or blocking-out of funds in general programs, directed toward special limited housing needs and problems of the public or segments thereof.

330:15-3-6. Interest rate.

Programs may provide for fixed rate or variable rate loans or both, at discretion of Trustees at time of finalization of program. Specific interest rate(s) for mortgages under each program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees at discretion of Trustees at time of finalization of the program.

330:15-3-7. Assumability of mortgage loans.

Program provisions for assumption of mortgage loans, or that loans are due on sale, for mortgages under each program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees in their discretion at the time of finalization of the program. A program may be changed after the commencement of a program to provide for assumption of mortgage loans where the program did not allow for assumption, provided that all necessary parties agree to such change, opinion of bond counsel advising of such changes is not in violation of the bond indenture of the program, and that all necessary steps are taken as may be necessary to amend the ~~program documents~~ Program Documents. In all programs providing for assumptions of mortgage loans, all assuming parties must qualify as a borrower under the terms and conditions of the program in question, except that if the program is intended to be tax-exempt under the Code, then the qualifications of the assuming borrower must be sufficient to at least satisfy the requirements of the Code in regard to such assumption.

330:15-3-8. Maximum mortgage loan interest rate.

Maximum interest rate on all mortgage loans under any first mortgage program shall be limited to 12% per annum and under any second mortgage program shall be limited to 15% per annum. The actual interest rate for mortgages under each program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees at discretion of the Trustees at time of finalization of the program.

330:15-3-9. Eligible dwellings.

Dwellings eligible for mortgage loans under any program must meet the following minimum requirements, in addition to the specific requirements of the program specified in the ~~program documents~~ Program Documents:

- (1) Must be located entirely within the State;
- (2) Must be owner-borrower occupied, unless approval has been requested and granted by OHFA for a temporary rental or lease of the dwelling permissible under the Code. Such request must be in writing and in a form acceptable to OHFA and must demonstrate extenuating circumstances warranting such approval;
- (3) Must be a single family dwelling;
- (4) May be manufactured housing, condominium units, and planned unit developments (PUDs) provided that:
 - (A) Manufactured housing must be permanently affixed to real property owned by the borrower.
 - (B) All subject to restrictions imposed under the Code.
 - (C) All subject to volume limitations for such housing types for the particular program to be fixed by Trustees at time of finalization of program.
 - (D) If the mortgage loan is to be insured by FHLMC, FNMA, FHA, VA, GNMA, PMI or similar coverages, the dwelling must satisfy the applicable requirements of such insurer.

- (5) Must be reasonably expected to become the principal residence of the mortgagor within a reasonable time, not to exceed sixty (60) days, after the loan is closed.
- (6) Must not be used in a trade or business, including farming or raising any plants or animals for profit, other than incidentally.
- (7) Property may not be subdivided.
- (8) Property may not be the subject of a zoning, minimum lot size or set back requirements variance for the purpose of obtaining the loan, or for divided sale, rental or lease of any portion of the property.
- (9) Must not be acquired or used, in conjunction with a tax-exempt program or qualifying tax-exempt Mortgage Loan, in whole or in part, by the mortgagor as an investment property, rental property, or as a recreational, vacation or second home; provided, however, that limited rentals/leases of the dwelling may be permitted by OHFA upon request as provided herein.
- (10) Real estate owned by any of the ~~participants~~ Participating Lenders, Trustee banks or OHFA may be eligible if otherwise qualified or not prohibited by law.

330:15-3-10. Maximum sale price.

Maximum sale price and/or appraised value of single family dwellings to be mortgaged under a program shall be fixed by Trustees at time of finalization of the program in question. In addition, such maximum sale price:

- (1) May be further restricted by provisions of the Code;
- (2) May be set at different amounts for various parts of the State, provided that such different amounts shall be based upon an objective standard generally accepted in the housing industry in the State as identifying the then current or recent per capita income and/or housing costs for the State and/or the various localities within the State;
- (3) Target areas or particular types of properties may be designated for special treatment under a program, as may be authorized or required under the Code, or as authorized or required by the final terms of the ~~program documents~~ Program Documents.

330:15-3-11. Program loan origination ~~periods~~.

~~Each program shall specify by dates, time period, or formula, the period of time during which program funds may be used or loans may be originated under the program in question~~ In order to best serve the citizens of the State, Mortgage Loans shall be originated on a continuous basis and allocated to the Program as applicable. The actual period of time for the use of ~~P~~program funds or the origination of mortgages under ~~each the P~~program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the ~~p~~Program is being developed and as may be determined by the Trustees and/or Staff at the discretion of the Trustees at time of finalization of the ~~P~~program.

330:15-3-12. Loan origination underwriting standards.

- (a) Loans for all programs shall be underwritten by use and application of the then current mortgage loan underwriting criteria and/or standards of one or more of the following:
 - (1) Federal Home Loan Mortgage Corporation (FHLMC)
 - (2) Federal National Mortgage Association (FNMA)
 - (3) Federal Housing Administration (FHA)
 - (4) Veterans Administration (VA)
 - (5) ~~Farmers Home Administration~~ USDA Rural Development (FmHARD)
 - (6) Such other standards as may be set by the terms of a specific program.
- (b) Reference is hereby made to the provisions of the rules, regulations, underwriting handbooks and other official manuals or underwriting guidelines of each of the entities identified in (a) of this Section, and for the purposes expressed herein, said provisions are hereby adopted by this reference as authorized

by Section 251(D) of the APA. ~~The specific under writing materials to be used in each program shall be specified in the program documents for the program in question.~~

(c) ~~Affidavits-Certifications~~ of the following parties pertaining to the compliance of each application and mortgage loan under each program must be obtained for the purpose of and used to verify whether or not the application and proposed mortgage loan qualifies under the specific program in question:

- (1) ~~Participant~~Participating Lender
- (2) Borrower
- (3) ~~Seller~~Such other parties as may be required by the Code.
- ~~(4) Bond Trustee~~
- ~~(5) Code Compliance Reviewers~~

(d) The aforementioned ~~affidavits-certifications~~ shall be in such form as may be approved from time to time by OHFA with the advice of its counsel in the implementation of the program in order to comply with pertinent requirements of the Code, the rules of this Chapter, and the specifics of ~~program documents~~Program Documents for the program in question.

330:15-3-13. Borrower's insurance requirements.

The actual insurance requirements for each program and for the origination of mortgages under each program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed, and as may be determined by the Trustees in their discretion at the time of finalization of the program. Such insurance requirements shall be at least as required by the referenced underwriting standards adopted for the program in question. By way of illustration, and not as a limitation, such insurance requirements may include one or more of the following types of insurance on a Mortgage Loan:

- (1) Mortgage Insurance — FHLMC, FNMA, FHA, VA, FmHARD and/or Private Mortgage Insurance (PMI)
- (2) Hazard Insurance
- (3) Flood Insurance, as required in accordance with the Federal Emergency Management Agency (FEMA) Maps and/or Mortgage ~~Insuror-Insurer~~ requirements.
- ~~(4) Municipal Bond Insurance, Interest Rate Caps, Pool Policies and other types of insurance or guarantees required in order to market bonds to finance the program.~~

330:15-3-14. Code compliance.

All programs which include provisions for the sale of bonds, notes or other debt obligations by OHFA which are intended to qualify as tax-exempt under the provisions of Section 103 of the Code shall make adequate provision in the documents and procedures for the attainment and requisite maintenance of the intended tax-exempt status of such debt obligations. Reference is hereby made to the provisions of Section 103 of the Code, and for the purposes expressed herein, said provisions are hereby adopted by this reference as authorized by Section 251(D) of the APA. If there is a conflict between the provisions of the Code and the rules of this Chapter, the Code shall prevail unless the rules provide restrictions more severe than those imposed by the Code, in which case the rules shall prevail.

SUBCHAPTER 5. BORROWERS

330:15-5-1. Requirements.

- (a) **State residency.** All borrowers in each program must prove that they are residents of the State or that they will be residents of the State at the time the loan is closed.
- (b) **Maximum income limitations.** The maximum income limitations for borrowers for each program shall be as authorized under the program in question, or the Code, as may be applicable to the program, provided, however, that the requirements for each program and for the origination of mortgages under each program may be lower than required by the Code, and shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees in their discretion at the time of finalization of the program. The Trustees, at their discretion, may set lower maximum income limitations for any program at time of finalization of the program in question. Maximum income limitations must be verified by affidavits of borrowers, and, when applicable, as may be required by the Code.

330:15-5-2. Fees and expenses.

(a) **Program specific.** Each program shall specify the fees and expenses to be paid by borrowers. By way of illustration, and not as a limitation, such fees and expenses to be paid by borrowers may include one or more of the following:

(1) **Application fees.** Borrowers may be required to pay an application fee to make application for a Mortgage Loan under any Program. Application fees shall be set for each program by the Trustees in their discretion at the time of finalization of the program.

(2) **Other fees and expenses.** Borrowers may be required to pay fees and expenses in connection with the processing of borrowers' application and requested loan for any program. By way of illustration, and not as a limitation, such fees and expenses which may be required to be paid in a program may include one or more of the following:

- (A) Survey fees
- (B) Abstracting and title examination and/or title insurance fees and expenses
- (C) Credit checks
- (D) Inspection fees and expenses
 - (i) habitability
 - (ii) structural
 - (iii) termite and insect/rodent infestation
- (E) Employment/income verification fees/expenses
- (F) Insurance escrows
- (G) Document preparation fees
- (H) Loan closing fees
- (I) Tax escrows
- (J) Utilities escrows
- (K) Mortgage insurance premiums or loan guarantee fees
- (L) Program fee
- (M) Loan origination fee
- (N) Such other fees and expenses as may be required by the program.

(b) **Requirement Set by Trustees and/or Staff.** The requirements for the payment of any of the particular fees and expenses in ~~each the P~~rogram and for the origination of mortgages under ~~each the p~~rogram shall be set as the Trustees and/or Staff may determine to be necessary under the market conditions prevalent at the time the Program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of the program.

(c) **Borrower Eligibility.** Any additional specific guidelines or criteria for eligibility of borrowers shall be determined and announced by OHFA Trustees and/or Staff for each specific program to be implemented. Factors which may be considered, depending on the particular program, include family income, family size, location of the residence to be financed (whether in a target or nontarget area) and whether the buyer is a first-time home buyer.

(d) **Preference for low income families.** OHFA shall endeavor to make the benefits of its programs available to all qualifying persons ~~of low income before extending benefits to moderate or higher income persons. Except for the foregoing, OHFA shall endeavor to~~will make its programs available to all qualified applicants on a first-come, first-served basis, and shall endeavor to make loan funds available across as wide a geographical distribution in Oklahoma as possible.

SUBCHAPTER 7. PARTICIPATING LENDERS

330:15-7-1. Statement of program purposes affecting ~~participating lender~~ Participating Lenders and ~~allocations to participating lenders~~.

In implementing its programs, OHFA may endeavor to utilize the services of competent mortgage lending institutions already doing business in Oklahoma at the time the particular program is implemented, ~~subject to any particular conditions imposed by bond rating and marketing considerations~~. Fees paid to ~~participating lender~~ Participating Lenders shall be fair and reasonably commensurate with the type of services rendered.

330:15-7-2. Qualifications of ~~participating lender~~ Participating Lenders in each program.

The qualification requirements for ~~participating lender~~ Participating Lenders in each program shall be set as the Trustees and/or Staff may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of each program in question. By way of illustration, and not as a limitation, such qualifications for ~~participating lender~~ Participating Lenders may include one or more of the following:

- (1) Minimum net worth;
- (2) Minimum total assets;
- (3) Qualified to issue mortgage backed securities of FNMA, GNMA, FHLMC or other similar issues of mortgage-backed securities;
- (4) Qualified to originate and service mortgage loans for FHA, FNMA, FHLMC, FmHARD, and/or VA;
- (5) No defaults in performance under prior programs of OHFA;
- (6) No suits pending against it;
- (7) Maximum mortgage loan portfolio default rate on mortgage loans serviced by it; and
- (8) A physical place of business within the boundaries of the State accessible to members of the public during normal business hours; and
- (9) Such other criteria as the Trustees and/or Staff may deem in their discretion to be pertinent.

330:15-7-3. Allocation to ~~participating lender~~ Participating Lenders.

In the event an allocation process is necessary to divide available loan proceeds among a number of ~~participating lender~~ Participating Lenders or for use within a number of counties or geographic areas, OHFA Trustees and/or Staff shall make such allocations on a fair, reasonable and equitable basis at a public hearing upon proper notice, offering affected persons or institutions an opportunity to be heard on the matter.

330:15-7-4. Blocking-out.

Blocking-out for ~~participating lender~~ Participating Lenders in each program shall be set as the Trustees and/or Staff may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of each program.

330:15-7-5. ~~Partieicipating lender~~ Participating Lenders fees.

The fee requirements for ~~participating lender~~ Participating Lenders in each program shall be set as the Trustees and/or Staff may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of each program in question.

330:15-7-6. Origination of program loans.

~~Participating lender~~Participating Lenders shall originate mortgage loans in accordance with then current loan origination requirements of either FHLMC, FNMA, FHA, ~~Fm~~HARD or VA, as the case may be. Additional origination requirements may be in such form as the Trustees and/or Staff may determine to be required by market conditions prevalent at the time the program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of the program.

330:15-7-7. Servicing of program loans.

Participating ~~L~~Lenders, as applicable, shall service ~~M~~Mortgage ~~H~~Hoans in accordance with then current loan servicing requirements of either FHLMC, FNMA, FHA, GNMA, ~~RD~~RD or VA, as the case may be. Additional servicing requirements may be in such form as the Trustees and/or Staff may determine to be required by market conditions prevalent at the time the program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of the program in question.

330:15-7-8. Limitations upon assignability of rights and duties of ~~participating lender~~Participating Lenders under programs.

Participating ~~L~~Lenders in any program shall not be authorized under ~~program documents~~Program Documents to assign their rights or obligations without the prior express written consent of OHFA ~~and the Bond Trustee for the program in question~~. No contract or agreement or other instrument evidencing, or intended to evidence, the assignment of any of such rights or duties of any ~~participating lender~~Participating Lenders shall make provision for the release of any of the obligations to OHFA or the Bond Trustee under the program in question, of the assigning ~~participating lender~~Participating Lenders, and such restriction may not be waived by any action of the Trustees, officers or staff of OHFA except by amendment to the rules of this Chapter.

330:15-7-9. ~~Participating lender~~Participating Lenders deemed to be fiduciaries of OHFA ~~and bond trustee~~.

All firms which agree to act as ~~P~~Participating ~~H~~Henders under any program for the purpose of originating and/or servicing ~~mortgage loans~~Mortgage Loans shall be deemed to be acting as a fiduciary agent to OHFA ~~and Bond Trustee for the program in question~~, and by accepting and agreeing to so act, such ~~p~~Participating ~~H~~Henders shall be bound to the standards and duties of conduct of a fiduciary agent, as provided by law.

330:15-7-10. Disqualification and/or termination of ~~participating lender~~Participating Lenders under programs.

~~The Program documents~~Program Documents for each program shall specify the specific grounds for disqualification and/or termination of a ~~participating lender~~Participating Lender in the program in question. By way of illustration, and not as a limitation, such grounds may include one or more of the following:

- (1) Insolvency of a ~~participating Lender~~Participating Lender.
- (2) Breach of any program agreement by a ~~participating lender~~Participating Lender.
- (3) Breach of OHFA Rules by the ~~participating lender~~Participating Lender.
- (4) Unreasonably high default rate in the portfolio of mortgages being originated and/or serviced by a ~~participating lender~~Participating Lender.

330:15-7-11. Additional requirements.

Additional servicing requirements may be in such form as the Trustees and/or Staff may determine to be required by market conditions prevalent at the time the program is being developed and as may be determined by the Trustees and/or Staff in their discretion at the time of finalization of the program in question.

330:15-7-12. REOs.

A ~~participating lender~~Participating Lender may be required to:

- (1) Maintain REOs (Real Estate Owned by a prior lender, ~~insurer~~insurer, or guarantor).
- (2) Handle sale of REOs.

330:15-7-13. Annual audit of program accounts with ~~participating lender~~Participating Lenders, as necessary.

As to each program in which a ~~P~~Pparticipating ~~H~~Hlender is originating and/or servicing mortgage loans, on or before one hundred twenty (120) days after the end of ~~p~~PParticipating ~~H~~Hlender's fiscal year, if requested by OHFA, ~~P~~Pparticipating ~~H~~Hlender, at its expense, shall cause a firm of independent public accountants to furnish a statement of the Program to Bond Trustee for each program, and to OHFA, for the preceding fiscal year, to the effect that such firm has examined certain documents and records relating to the servicing of the mortgage loans and that, on the basis of such examination conducted substantially in compliance with the audit program for mortgages serviced for FHLMC, FHA, FNMA, GNMA, ~~Fm~~HARD or VA, or such other auditing standards as may be set by the terms of a specific program, as the case may be, and such firm is of the opinion that such servicing has been conducted in compliance with such standards except for (i) such exceptions as such firm shall believe to be immaterial and (ii) such other exceptions as shall be set forth in such statement. In addition, if requested by OHFA, on or before one hundred twenty (120) days after the end of ~~participating lender~~Participating Lender's fiscal year, ~~participating~~Participating Hlender, at ~~P~~Pparticipating ~~L~~Lender's expense, shall furnish to ~~the Bond Trustee and to~~ OHFA a copy of ~~participating lender~~Participating Lender's financial statement (audited, if available) for its fiscal year which accurately sets out the net worth, shareholders equity or unimpaired capital position (or other equivalent term as used in generally acceptable accounting practice) of the ~~participating lender~~Participating Lenders.

330:15-7-14. Effect of default on qualification.

Participating ~~H~~Hlenders must not be deemed by OHFA ~~or any program Bond Trustee~~ to be in default under any prior OHFA program at the time of determining whether ~~participating lender~~Participating Lenders are eligible to become a ~~p~~PParticipating ~~H~~Hlender under the ~~P~~Pprogram in question.

330:15-7-15. Compliance.

Each ~~P~~Pparticipating ~~H~~Hlender shall be obligated to follow State and federal laws and the rules and ~~program documents~~Program Documents applicable to ~~p~~PParticipating ~~H~~Hlenders in connection with the ~~p~~PProgram in question.

SUBCHAPTER 9. BONDS

330:15-9-1. Security.

The ~~bonds~~Bonds for each ~~program~~Program shall be secured by the portfolio of mortgages originated under the ~~p~~Program, or mortgage-backed securities covering such mortgages, and such additional security, including security other than the mortgages or mortgage-backed securities with respect to the particular program, in such form as the Trustees ~~_~~ may determine to be required by market conditions prevalent at the time the ~~program~~Program is being developed and as may be determined by the Trustees at the discretion of the Trustees at time of finalization of the ~~program~~Program.

330:15-9-2. Limited obligations.

All ~~bonds~~Bonds are to be special limited obligations of OHFA and not the obligation of the State. To this end, all Bond or Trust Indentures, and all bonds, notes or other evidences of indebtedness of OHFA issued in connection with any program shall bear a restriction in substantially the following form:

THE BONDS ARE SOLELY THE OBLIGATIONS OF THE ISSUER AND NOT OF THE STATE OF OKLAHOMA OR THE PARTICIPANTS. THE BONDS ARE PAYABLE SOLELY OUT OF THE INCOME, REVENUES AND RECEIPTS DERIVED OR TO BE DERIVED FROM THE MORTGAGE LOANS, AND THE FUNDS AND ACCOUNTS AND ADDITIONAL SECURITY HELD UNDER AND PURSUANT TO THE BOND INDENTURE AND PLEDGED THEREFOR OR OTHER INCOME, REVENUES AND RECEIPTS RECEIVED BY THE ISSUER FROM ANY OTHER SOURCES AS A RESULT OF THE INVESTMENT OR EXPENDITURE OF THE PROCEEDS DERIVED FROM THE ISSUANCE OF THE BONDS, INCLUDING, BUT NOT BY WAY OF LIMITATION, CERTAIN INSURANCE PROCEEDS AND OTHER MONEYS WHICH, BY LAW OR CONTRACT, MAY BE MADE AVAILABLE TO THE ISSUER AND PLEDGED UNDER AND IN THE MANNER PRESCRIBED IN THE BOND INDENTURE. THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE AN OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE STATE OF OKLAHOMA OR ANY PARTICIPANT WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

330:15-9-3. Special reserves.

Provision for special reserves for protection of bondholders in each program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees at the discretion of the Trustees at the time of finalization of each program in question.

330:15-9-4. Bond terms.

- (a) OHFA, at its discretion, may finance all or a portion of its Single Family ~~Mortgage Loan~~Home Ownership Programs with proceeds of bonds issued and sold by OHFA.
- (b) All bonds for each program are to be sold in compliance with applicable state and federal laws.
- (c) All bonds for each program may be tax-exempt or taxable or may be a combination of taxable and tax-exempt bonds for each program, as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees in their discretion at the time of finalization of the program.
- (d) The average coupon rate and the maximum interest rate of the bonds for any program shall not exceed the maximum rate authorized by state law.

(e) Maximum and average effective interest rates for bonds under each program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees in their discretion at the time of finalization of the program in question.

330:15-9-5. Competitive bidding.

Competitive bidding as required by 62 O.S., Section 695.1 et seq. Oklahoma Bond Oversight and Reform Act or other state laws shall be complied with for all programs. The requirements for particular services or goods for a particular program shall be set as the Trustees may determine to be necessary under the market conditions prevalent at the time the program is being developed and as may be determined by the Trustees in their discretion at the time of finalization of the program in question. By way of illustration, and not as a limitation, such services or goods for a particular program requiring competitive bidding in some form may include one or more of the following professional services providers:

- (1) Underwriters.
- (2) Bond Trustee.
- (3) Bond Counsel.
- (4) Tax Counsel.
- (5) ~~Cash flow certifications.~~ Financial Advisor.
- (6) ~~Printing of bonds and official statements, etc.~~ Master Servicer.
- (7) ~~Credit enhancements.~~ Cash Flow Certifications.
- (8) Printing of bonds and official statements, etc.
- (9) Credit Enhancements.

330:15-9-330:15-9-6. Volume of bonds.

Volume of bonds to be issued for any program shall not be in excess of amount authorized by CAP Allocation received from the State (when CAP is applicable).

330:15-9-7. Approval of ~~Joint Bond Oversight Commissions~~ Council of Bond Oversight.

No bonds shall be issued except after receipt of approval from the ~~Joint Bond Oversight Commissions~~ Council of Bond Oversight.

330:15-9-8. Approval of Governor.

No bonds shall be issued except after receipt of approval by the Governor of the State of Oklahoma of the program being financed by the bonds.

330:15-9-9. Trustee action to be taken.

Programs shall be developed and implemented only upon the following minimum action of the Trustees:

- (1) The adoption of an initial resolution authorizing the development of a program:
 - (A) Specifying the maximum size of the program;
 - (B) Directing the staff to seek CAP allocation from the State (when applicable);
 - (C) Directing staff to take such preliminary action as may be required in law to select ~~a managing underwriter and bond counsel~~ professional services providers; and
 - (D) Directing staff to take such action as may be necessary to determine the necessity for a program and the size thereof.
- (2) The adoption of resolutions selecting ~~a managing underwriter, financial advisor or placement agent (if any is needed) and bond counsel~~ professional services providers; and
- (3) The adoption of a final resolution approving all ~~program documents~~ Program Documents, agreements, and procedures, and authorizing the sale of the bonds and the implementation of the program

and specifying the interest rates for the ~~mortgages and~~ the bonds and taking such other action as may be necessary to implement the ~~program~~Program. ~~if it is the decision of the Trustees in their discretion to implement the program in question.~~

SUBCHAPTER 11. NO LOANS TO PARTIES WITH POTENTIAL CONFLICT OF INTEREST

330:15-11-1. Parties deemed to be in a conflict of interest.

OHFA desires and intends to not allow mortgage loans to be made to parties who have or may appear to have a conflict of interest in the making and/or receipt of a mortgage loan under any of its programs. To this end, OHFA declares the following parties to be in a conflict of interest and not eligible to be a borrower pursuant to a mortgage loan financed directly or indirectly by OHFA or any program of OHFA:

- (1) OHFA affiliates:
 - (A) Trustees;
 - (B) Officers;
 - ~~(C) Employees; (C) Bond Counsel and attorneys of firm~~
 - ~~(D) Father, mother, sisters, brothers, father in law, mother in law, and sisters and brothers in law, lineal heirs and dependents of Trustees and officers; (D) General Counsel and attorneys of firm; and~~
 - ~~(E) Dependents of employees; (E) Tax Counsel and attorneys of firm.~~
 - ~~(F) Bond counsel and attorneys of firm;~~
 - ~~(G) General counsel and attorneys of firm; and~~
 - ~~(H) Tax counsel and attorneys of firm.~~
- (2) Bond Trustee bank affiliates:
 - (A) Officers;
 - (B) Directors;
 - ~~(C) 5% stockholders;~~
 - ~~(D) Employees;~~
 - ~~(E) Father, mother, sisters, brothers, father in law, mother in law, and sisters and brothers in law, lineal heirs and dependents of officers, directors and 5% stockholders; and~~
 - ~~(F) Dependents of employees.~~
- (3) Participating Lender's affiliates:
 - (A) Officers;
 - (B) Directors;
 - ~~(C) 5% stockholders;~~
 - ~~(D) Employees of the participating lenderParticipating Lender in question, and each of its originating entities (if applicable), to whom the application is made;~~
 - ~~(E) Father, mother, sisters, brothers, father in law, mother in law, and sisters and brothers in law, lineal heirs and dependents of officers, directors and 5% stockholders; and~~
 - ~~(F) Dependents of employees of the participating lenderParticipating Lender in question, and each of its originating entities (if applicable), to whom the application is made.~~
- (4) State Officials affiliates:
 - (A) Governor;
 - (B) Governor's staff;
 - (C) Members of ~~Joint Bond Oversight Commissions~~Council of Bond Oversight;
 - ~~(D) Father, mother, sisters, brothers, father in law, mother in law, and sisters and brothers in law, lineal heirs and dependents of Governor, Governor's staff, and members of Joint Bond Oversight Commissions; and~~
 - ~~(E) Staff of Oklahoma Department of Commerce (CAP Allocation).~~