

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-

Agency

Department of Housing

Subject

Limited Equity Cooperative/Mutual Housing Association Program

Inclusive Sections

§§ 8-214h-1—8-214h-20

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Limited Equity Cooperative/Mutual Housing Association

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Limited Equity Cooperative/Mutual Housing Association Program

Sec. 8-214h-1. Definitions

The following definitions apply to Sections 8-214h-1 through 8-214h-17 of the Regulations of Connecticut State Agencies:

- (a) “Adjusted Gross Income” means the gross income less allowable deductions.
- (b) “Admission Income Limit” means the maximum income allowed for admission to a project.
- (c) “Board of Directors” means the governing body of a limited equity cooperative or mutual housing association, which is comprised of elected representatives of the residents and may include non-residents.
- (d) “Carrying Charge” means the amount, excluding any security deposits, membership fees or down payments, payable by each resident for occupancy of a dwelling unit, whether such dwelling unit is owned or operated on a landlord-tenant or home ownership basis or as a condominium or cooperative.
- (e) “Commissioner” means the Commissioner of Housing.
- (f) “Cooperative Member” means resident(s) or household of a limited equity cooperative project entitled to occupy a dwelling unit to the exclusion of others and who is entitled to vote at membership meetings of the cooperative project.
- (g) “Department” means the Connecticut Department of Housing.
- (h) “Dependent” means a member of the family who does not derive more than half of his or her total support for the calendar year from sources other than the family.
- (i) “Developer” means a limited equity cooperative, mutual housing association or other nonprofit corporation incorporated pursuant to Chapter 600 of the Connecticut General Statutes, having as one of its purposes the construction, rehabilitation, ownership or operation of housing and having articles of incorporation approved by the Commissioner.
- (j) “Equity Capital” means the amount contributed to a project by a mutual housing association through membership fees or grants obtained from sources other than the State.
- (k) “Equity Interest” means a housing site, cash contribution or sweat equity, any of which must be approved by the Commissioner as part of the total project development cost to be furnished by a developer.
- (l) “Family” means a household consisting of one or more persons.
- (m) “Families of Low and Moderate Income” means families who lack the amount of income which is necessary, as determined by the Commissioner, to enable them, without financial assistance to live in decent, safe and sanitary dwellings, without overcrowding.
- (n) “Financial Assistance” means grants, loans or any combination thereof provided for the purpose of developing a project(s) for which a contract is entered into by the State with a developer.
- (o) “Full-time Student” means a student carrying a subject load considered full-time by an accredited educational institution attended. The institution may be a vocational school offering a diploma or certificate or an institution offering a high school diploma or college degree.

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(p) “Gross Income” means the aggregate annual income of all family members residing in the dwelling unit from all sources, before any deductions.

(q) “Interim Loan” means a loan which provides funds necessary to develop a project at an interest rate to be determined in accordance with Subsection (t) of Section 3-20 of the Connecticut General Statutes. Such loan is due and payable following the cost certification of the project.

(r) “Limited Equity Cooperative” means a cooperative formed as a common interest community in which the real property is owned by the cooperative, each of whose members is entitled by virtue of his ownership interest in the cooperative to exclusive occupancy of a unit and whose declaration contains any restrictions on (1) the amount for which a unit may be sold, or (2) the amount that may be received by a cooperative member on the (A) sale or condemnation of, or casualty loss to, the unit or to the common interest community, (B) termination of the common interest community, or (C) abandonment or other termination of a cooperative member’s right of occupancy of a unit.

(s) “Limited Equity Cooperative Project” or “Mutual Housing Association Project” or “Project” means any work or undertaking to provide decent, safe and sanitary dwelling units for families of low and moderate income which may include the planning of buildings and improvements, the acquisition of property, site preparation, demolition of existing structures, new construction or the rehabilitation of existing buildings. The project may also include the organizational development of and resident training for a limited equity cooperative or a mutual housing association.

(t) “Major Building Component” means roof structures, ceilings, wall or floor structures, foundations, or plumbing, heating or electrical systems.

(u) “Mortgage” means an interest in real property created by a written instrument providing a first lien of such property as security for repayment of a debt or obligation.

(v) “Mutual Housing Association” means a nonprofit corporation having as one of its purposes the construction, rehabilitation, ownership or operation of housing, or the prevention and elimination of neighborhood deterioration and the preservation of neighborhood stability, achieved by affording community and resident involvement in the provision of high quality, long-term housing for low and moderate income families in which residents (1) participate in the ongoing operation and management of such housing, (2) have the right to continue residing in such housing for as long as they comply with the terms of their occupancy agreement and (3) do not have an equity or ownership interest in such housing.

(w) “Permanent Loan” means a loan for a term not to exceed 50 years, in an amount which does not exceed the certified development cost of a project(s) and at an interest rate to be determined in accordance with Subsection (t) of Section 3-20 of the Connecticut General Statutes.

(x) “Rehabilitation” means repairs, replacements and improvements:

(1) the cost of which exceeds 15% of the property’s value after completion of all repairs, replacements and improvements; or.

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(2) that include the replacement of at least one major building component.

(y) “Resident” means a cooperative member or resident member as defined herein.

(z) “Resident Member” means resident(s) or a household of a mutual housing association project entitled to occupy a dwelling unit to the exclusion of others and who is entitled to vote at membership meetings.

(aa) “Sweat Equity” means the value of the labor provided by or on behalf of the cooperative member, at a fixed hourly rate, for the construction, rehabilitation, operation or management of a limited equity cooperative project.

(bb) “Utility Allowance” means the average monthly amount, as determined by the Commissioner, for a family for heat and other utilities, excluding telephone, which is not supplied or paid for by the Board of Directors of the project.

(Effective November 30, 1990)

Sec. 8-214h-2. Program description

(a) The purposes of these programs are to provide an alternative to traditional rental housing by ensuring security of residency, continued affordability and participation in the design and operation of housing, and to make public investments in residential neighborhoods to preserve and stabilize them

(b) The Commissioner may enter into a contract(s) with a developer for financial assistance in the form of grants, loans or any combination thereof for the development of limited equity cooperatives and/or mutual housing association projects for low and moderate income families.

(c) Developers may receive state financial assistance for the development of a project, including, but not limited to: organizational development, predevelopment costs, site acquisition and preparation, construction or rehabilitation, architect’s fees, resident training, and administrative or other costs or expenses incurred by the State. The amount of the State financial assistance shall be determined by the Commissioner with the approval of the State Bond Commission.

(d) Developers shall be required to have an equity interest in the total development cost of the project.

(e) The Commissioner may, for good cause shown, if he deems it in the best interest of the State, waive any non-statutory requirement imposed by Sections 8-214h-1 to 8-214h-17, inclusive, of these regulations.

(f) Developers shall be required to comply with all rules and orders promulgated from time to time by the Commissioner and consistent with the development and management of limited equity cooperatives or mutual housing association projects pursuant to Section 8-214f through 8- 214h of the Connecticut General Statutes and these regulations.

(Effective November 30, 1990)

Sec. 8-214h-3. Eligibility

To be eligible to participate, a developer must:

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- (a) Submit an endorsed certificate of incorporation certified by the Secretary of the State;
 - (b) Submit a certificate of good standing certified by the Secretary of the State;
 - (c) Inform the Department, in writing, of the corporation's principal place of business;
- and
- (d) Submit names, addresses and telephone numbers of its directors or officers and statutory agent for service.

(Effective August 18, 1988)

Sec. 8-214h-4. Application and project approval process

(a) The Commissioner may solicit and/or accept applications for financial assistance for project(s) from developers.

(b) Developers may be required to pay a processing fee.

(c) As part of the application and project approval process, the developer shall be required to furnish the following:

- (1) Certification of the developer's eligibility, as defined in Section 8-214h-3 above;
- (2) The developer's plan for ongoing management of the project, including, but not limited to: Board of Director's composition and responsibilities; ongoing oversight by the developer/Board of Directors; membership rights and responsibilities, and resident training requirements;
- (3) Evidence of housing need and marketability;
- (4) Evidence of equity interest;
- (5) Evidence of site control;
- (6) Evidence that local site plan approval has been obtained;
- (7) Evidence of local support;
- (8) Plans and specifications in accordance with the Commissioner's design standards;
- (9) Financial information on projected costs of development and management;
- (10) Evidence that the developer has the financial ability to undertake the development of the project through the provision of financial statements or other documentation;
- (11) A list of housing projects which it has developed, owned or managed; and
- (12) A statement authorizing the Commissioner to apply for a credit report from any appropriate credit reporting agency covering the developer for consideration in determining the financial capability of the developer.

(d) The Commissioner may, from time to time, request additional information from the developer.

(e) Applications shall be approved or disapproved by the Commissioner based on the factors listed in Section 8-214h-4 (c) above, the availability of financial assistance, and factors which shall include, but not be limited to:

- (1) Any needs outlined in the Five Year Housing Advisory Plan;
- (2) Housing assistance plans, if in existence;
- (3) Any other statistical data on housing need and marketability;
- (4) Suitability of the proposed site and project;

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(5) The apparent capability of the developer to plan, complete and provide for management of the project;

(6) The degree to which State financial assistance is leveraged with other funds to produce housing for low and moderate income families;

(7) Local community support; and

(8) Approval by the Commissioner of the developer's proposed methods of financing, the developer's proposed return on equity for limited equity cooperatives and membership fees for mutual housing associations, the proposed carrying charges, the income limits for admission, and a detailed estimate of the expenses and revenues in the form and manner prescribed by the Commissioner.

(f) If applicable, a legal opinion shall be submitted by the developer that the proposed project complies with the provisions of the Common Interest Ownership Act, Chapter 828 of the Connecticut General Statutes.

(g) If an application is disapproved, the developer shall be notified in writing of the reason(s) for the disapproval.

(h) If an application is approved, the Commissioner shall request State financial assistance in the form of grants, loans or any combination thereof from the State Bond Commission.

(Effective November 30, 1990)

Sec. 8-214h-5. Contract for financial assistance

(a) Following approval of the State Bond Commission pursuant to the provisions of Section 3-20 of the Connecticut General Statutes, the State, acting by and through the Commissioner, may enter into a contract(s) with a developer for financial assistance for project(s) in the form of interim and/or permanent loan(s), grant(s) or any combination thereof in an amount not in excess of the total development cost of the project(s) as determined by a cost certification and as approved by the Commissioner, less any equity interest required.

(b) In the case of a grant or combination loan(s) and grant(s), the total amount of the grant(s) shall be limited to an amount which together with the loan(s), if applicable, is necessary to enable the developer to set and maintain the admission income limits and carrying charges approved by the Commissioner.

(c) Such contract(s) shall include but not be limited to: equity interest to be provided, the amount of financial assistance to be provided, the completion timetable, the term of the loan(s), the amount of the State service charge to be assessed during the development and management of the project(s), the provisions for development and management, and the rights and obligations of the parties under the contract(s).

(d) The term and interest rate of interim and permanent loan(s) shall be as follows:

(1) The term of the interim loan shall be from the closing of the interim loan to the closing of the permanent loan. The interim loan shall bear an interest rate to be determined in accordance with Subsection (t) of Section 3-20 of the Connecticut General Statutes.

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(2) The term of the permanent loan shall be for a period not to exceed 50 years. The actual term will be determined by taking into account the financial feasibility of the project and term of the rental subsidy, if any, for the project. The interest rate shall be determined in accordance with Subsection (t) of Section 3-20 of the Connecticut General Statutes.

(3) All permanent loans shall be secured by a mortgage note and deed.

(4) Amortization of the loan shall commence once the monthly project income meets or exceeds the approved operating budget or at the closing of the permanent loan, whichever occurs first. The Commissioner may waive the requirement for amortization prior to the closing of the permanent loan, if it is in the best interest of the State.

(e) A lien shall be filed on all property for which the State has provided financial assistance. The Commissioner may subordinate the State's lien if the level of State financial assistance so warrants. This requirement may be waived if the Commissioner determines that such waiver will be in the best interest of the State.

(Effective August 18, 1988)

Sec. 8-214h-6. Management

(a) The Board of Directors shall manage the project in an efficient manner so as to enable it to fix the carrying charges for the dwelling units at the lowest possible rates consistent with providing decent, safe, and sanitary dwelling units.

(b) The total project income from carrying charges and other income shall be sufficient to meet the costs of project operation including but not limited to:

(1) Property taxes, either full or abated, or payments in lieu of taxes;

(2) The cost of a State service charge if one is assessed; a State service charge if assessed need not cover all State costs associated with a project;

(3) The cost of operating and maintaining the project including its administrative costs, provision of reasonable reserves for repairs, maintenance and replacements, a reserve for amounts refundable to residents who vacate their units, and vacancy and collection losses;

(4) The cost of the principal and interest due and payable the loan, if applicable; and

(5) Not more than 10% return on equity capital, contributed through mutual housing association membership fees or grants obtained from sources other than the State, provided such return on equity capital shall be utilized by the Board of Directors to develop additional dwelling units for low and moderate income families.

(c) The Commissioner shall annually approve an operating budget for each project.

(d) In the event a cooperative member vacates his/her dwelling unit in a limited equity cooperative project, the resident may be entitled to no more than the following payment(s) in return:

(1) 100% of the cash contribution and/or value of the sweat equity contribution;

(2) No more than ten percent (10%) compounded annually of the value of such contribution and/or sweat equity contribution for the period of occupancy of the unit;

(3) The current value of any permanent authorized improvements paid for by the cooperative member and approved by the Board of Directors.

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(e) In the event a resident member vacates their dwelling unit in a mutual housing association project, the resident member's membership fee shall be refundable with interest of no more than 10% compounded annually.

(f) Any revisions to documents approved under Section 8-214h-4 (d) (8) of these regulations shall be submitted to the Commissioner for his prior approval.

(Effective November 30, 1990)

Sec. 8-214h-7. Eligibility for admission

(a) A family shall be eligible for admission to a project provided they do not exceed the admission income limits established in Section 8-214h-8 of these regulations; and

(1) For limited equity cooperative project(s), contribute their labor (sweat equity) during the development or operation of the project, or make a cash contribution to become a member of the project or both, in an amount approved by the Commissioner. The value of the sweat equity shall not exceed the hourly wage rates, determined from time to time by the U.S. Department of Labor, Employment and Standards Administration, Wage and Hour Division for labor performed in the applicable municipality or region; or

(2) For mutual housing association project(s), pay a membership fee, in an amount determined by the Board of Directors and approved by the Commissioner.

(3) The manner and/or value of sweat equity, cash contribution or membership fee shall be set at a level affordable to low and moderate income families.

(b) The application for admission shall be substantially in the form prescribed by the Commissioner and shall include a notice of the penalty for false statement for any person and permission for the developer to verify the income of the applicant.

(Effective November 30, 1990)

Sec. 8-214h-8. Admission income limits

(a) The developer/Board of Directors shall develop and manage the project so that, insofar as is practical, the lowest income families continue to be served.

(b) The admission income limits for grant project(s) shall not exceed fifty percent (50%) of the area median income, adjusted for family size, as determined from time to time by the U.S. Department of Housing and Urban Development, unless otherwise approved by the Commissioner.

(c) The admission income limits for loan(s) or loan(s) and grant(s) combination project(s) shall not exceed one hundred percent (100%) of the area median income, adjusted for family size, determined from time to time, by the U.S. Department of Housing and Urban Development, unless otherwise approved by the Commissioner.

(d) If the adjusted gross income exceeds the admission income limit, the family shall be deemed ineligible for admission.

(Effective August 18, 1988)

Sec. 8-214h-9. Income

The family's adjusted gross income shall be used for the purpose of determining eligibility for admission.

(a) The following items shall be deducted from the gross income to arrive at the adjusted gross income in amounts as established by the Commissioner:

- (1) Income of all dependents who have not reached their 18th birthday;
- (2) Income received as compensation for the care of foster children or from the State Department of Children and Youth Services (DCYS) Adoption Program;
- (3) Income from full-time students who have not reached their 23rd birthday;
- (4) Annual medical expenses which exceed three percent (3%) of the family's gross income;
- (5) Child care costs which enable one or both parents to be gainfully employed;
- (6) Alimony and child care payments as ordered by the courts;
- (7) A deduction for each dependent; and
- (8) Any other item which, from time to time, may be established by the Commissioner.

(b) In the event that any member of the family is self employed, net income, as defined by the Internal Revenue Service, plus depreciation, shall be used in the determination of adjusted gross income.

(Effective August 18, 1988)

Sec. 8-214h-10. Waiting list

(a) The developer/Board of Directors shall provide a receipt to each applicant to its project(s) stating the time and date of the application and assigning the applicant an identifying number which shall be recorded on the receipt and on the application for admission.

(b) The developer/Board of Directors shall create and maintain a waiting list of such applications and procedures for selecting residents from such list as approved by the Commissioner, which shall include the applicant's identifying number, the time and date the application was received by the developer and the size of the dwelling unit required by the applicant. Such list shall be a public record as defined in Section 1-18a of the Connecticut General Statutes.

(c) The developer/Board of Directors shall, from time to time, but no less than once each calendar year, revise and update the waiting list(s) so as to reflect the most current status of applicants.

(d) The developer/Board of Directors shall maintain a copy of the waiting list(s) and revisions to such list(s) at its office in the State of Connecticut or, if no such office exists, at the office of the town clerk in the municipality in which the project is located. Such list(s) shall be provided to the Commissioner or his representative upon his request.

(Effective August 18, 1988)

Sec. 8-214h-11. Income verification

(a) The income verification period shall be the calendar year January 1 to December 31 of the preceding year. For residents who are seasonally employed, employed in a second job for a portion of the year, or are self-employed, their income shall be based on the average income for the preceding two year period

(b) Immediately after December 31 of each year the Board of Directors shall send applications for income verification to all current residents. These applications shall be completed by the residents and returned to the developer on or before February 15.

(c) All residents shall be recertified to be effective May 1 with any carrying charge changes. Written notice of these carrying charge changes shall be delivered to the resident at least 30 days prior to the effective date.

(d) Upon a resident's failure to submit such income verification, the Board of Directors may institute procedures for summary process, pursuant to Chapter 832 of the Connecticut General Statutes. During the non-compliance period, the Board of Directors shall compute the resident's carrying charges at the unit's market value. The resident may comply with the re-verification requirements at any time prior to eviction. Any difference between the market value charged and the carrying charges computed upon verification shall be due to or from the Board of Directors, except that the Board of Directors may charge reasonable administrative and legal fees necessary to pursue the eviction process.

(e) The requirements for verification of income shall be included in all occupancy agreements.

(f) In limited equity cooperatives where the carrying charge is determined by the developer and approved by the commissioner, as noted in Section 8-214h-12 (a) (2) (B), income shall be verified every two years according to the schedule noted in subsection (b) of this section

(g) Income verification data shall be submitted in the form and manner prescribed by the commissioner.

(Effective November 30, 1990)

Sec. 8-214h-12. Carrying charge determination

(a) **Carrying charges shall be determined as follows:**

(1) In project(s) where a federal or state rental subsidy is available, the percentage of family income used to establish the carrying charge will be determined by the federal or state agency.

(2) In project(s) where no rental subsidy exists, the carrying charge shall be established and the resident will pay:

(A) A percentage of the adjusted gross income not to exceed 30%, minus a utility allowance for those residents who pay their own utilities. The percentage shall be established by the Board of Directors and approved by the Commissioner; and/or

(B) The established carrying charge determined by the developer and approved by the Commissioner minus a utility allowance for those residents who pay their own utilities.

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(b) Any resident of a mutual housing association project whose adjusted gross income exceeds 125% of the area median income, adjusted for family size, as determined from time to time by the U.S. Department of Housing and Urban Development, shall pay carrying charges in an amount not less than 25% of their adjusted gross income.

(c) The Board of Directors shall use increased carrying charges paid by resident members with adjusted gross incomes which exceed 125% of the area median income to:

- (1) develop additional dwelling units for low and moderate income families; and/or
- (2) credit the carrying charges of other mutual housing association members who are of low and moderate income.

(Effective August 18, 1988)

Sec. 8-214h-13. Procedures for carrying charge changes

(a) Each Board of Directors shall mail a written notice to all residents at least 30 days before the meeting date, stating that a change in the carrying charges and the methods for computing such carrying charges will be discussed at its meeting (include the proposed change, the date, time and location of the meeting), and may result in an adjustment in the carrying charge.

(b) The written notice shall advise residents that they may view any documents supporting the proposed carrying charge change which will be on file at the office of the Board of Directors.

(c) Within 15 days after receipt of the Board of Directors recommended carrying charge change, the Commissioner shall approve, disapprove, or request modification of the proposed carrying charge change or any portion thereof.

(d) If the carrying charge change is approved by the Commissioner, the Board of Directors must then give the residents at least 30 days written notice prior to the effective date of the carrying charge change.

(Effective August 18, 1988)

Sec. 8-214h-14. Sale and disposition of projects

(a) The provisions of this section shall not apply to the situation where individual residents vacate their dwelling units.

(b) No project may be sold or disposed of unless the Commissioner determines that there is no longer an acute shortage of such housing in the locality or that it is in the best interest of the State. If it is so determined, such project or any part thereof which received state financial assistance may be sold upon the terms and conditions approved by the Commissioner.

(Effective August 18, 1988)

Sec. 8-214h-15. Preemption

In a limited equity cooperative, where the provisions of the Common Interest Ownership Act, Chapter 828 of the Connecticut General Statutes, are in conflict with the provisions of

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these regulations, the provisions of the Common Interest Ownership Act shall be deemed to be controlling.

(Effective August 18, 1988)

Sec. 8-214h-16. Financial reporting and access to records

(a) Each developer/Board of Directors shall maintain in the State of Connecticut complete and accurate books and records, insofar as they pertain to State assisted housing projects, and they shall be set up and maintained in accordance with the latest procedures approved by the Commissioner.

(b) Each developer/Board of Directors shall furnish the Commissioner with financial statements and other reports relating to the development and operation of the project in such detail and at such time as he may require.

(c) At any time during regular business hours, and as often as the Commissioner may require, the Commissioner or his representatives shall be entitled to full and free access to the accounts, records and books of the developer/Board of Directors relative to the project, said permission to include the right to make or require the developer/Board of Directors to provide excerpts or transcripts from such accounts, records and books.

(Effective August 18, 1988)

Sec. 8-214h-17. Fiscal compliance and examination

Each developer/Board of Directors receiving financial assistance shall be subject to examination of all books and records related to the project. Examinations shall be performed by independent public accountants registered to practice in the State of Connecticut, or by qualified Department personnel. All examinations shall be in accordance with procedures established by the Department. An examination is to be completed as soon as possible following the completion of the project and at such other times as the Department may require.

(Effective August 18, 1988)

Limited Equity Cooperative/Mutual Housing Association

Sec. 8-214h-18. Definitions

(a) “Developers’ Fee” means a bonus earned by developers that have successfully completed key events in the development process.

(b) “Key Events” means the four main phases in the development process: (1) Preliminary Application Approval, (2) Final Application Approval, (3) Construction Start; and (4) Construction Completion.

(c) “Successfully Completed” means completion of key events in a timely manner.

(Effective December 27, 1990)

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Sec. 8-214h-19. Terms and conditions

(a) A developers' fee may be established at up to 10% of the total development cost, less the cost of land, or \$100,000, whichever is less.

(b) The fee schedule shall be determined as follows:

<u>Percent of Fee</u>	<u>Key Event</u>
10%	Preliminary Application
15%	Final Application
25%	Construction Start
50%	Construction Completion

(c) Developer's fees are earned based on the schedule established for completing key events in the development process, as approved by the Commissioner.

(d) Developers shall only earn a fee for those key events that are completed according to the established schedule. Developers may not be entitled to earn a fee for key events completed after the established schedule. Developers shall earn, but not receive, any fee, until completion of the housing development.

(Effective December 27, 1990)

Sec. 8-214h-20. Implementation

The provisions of Section 8-68g-1, except as otherwise provided, shall govern the implementation of the Limited Equity Cooperative/Mutual Housing Association Program developers' fee.

(Effective December 27, 1990)