

AN ACT

ENTITLED, An Act to revise and repeal certain administrative rules relating to the South Dakota Housing Development Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That ARSD 20:09:01:01 be amended to read as follows:

20:09:01:01. Definitions. Terms used in this article and not otherwise defined in the South Dakota Housing Development Act, SDCL chapter 11-11, mean:

- (1) "Act," the South Dakota Housing Development Authority Act, SDCL chapter 11-11;
- (2) "Administrative agent" or "mortgage lender," any bank or trust company, federal National Mortgage Association-approved mortgage banker, savings bank, industrial bank, credit union, national or state banking association, insurance company, or other financial institutions, federal or state savings and loan association licensed by the Division of Banking, or governmental entity which customarily provides service or otherwise aids in the financing of mortgages on residential housing located in the state which, through a contractual arrangement with the authority, accepts, reviews, screens, and investigates applications for assistance through or by the authority and which, through contractual arrangements with the authority, originates or services mortgage loans made with the authority's assistance;
- (3) "Applicant," a corporation, partnership, limited partnership, limited liability company, joint venture, trust, firm, association, individual, public body, or other legal entity or any combination of them, applying for money, assistance, or services;
- (4) "Application," a request for authority assistance made on forms furnished by the authority;
- (5) "Assisted living center," an institution, rest home, boarding home, place, building, or agency which is maintained or operated to provide personal care and services which meet some need beyond basic provision of food, shelter, and laundry to five or more persons and which is licensed by the

South Dakota Department of Health pursuant to SDCL chapter 34-12;

(6) "Board," the commissioners in whom the powers of the authority are vested;

(7) "Bond or note resolution," the action taken by the board authorizing the issuance of bonds or notes to provide financing for authority mortgage loans or assistance approved by the board;

(8) "Congregate housing," residential housing which provides a semi-independent living environment with central dining facilities (where at least one meal is provided seven days a week), related facilities, and supporting staff and services to persons of at least 62 years of age or with disabilities;

(9) "Executive director," the chief executive and administrative officer of the authority;

(10) "Rehabilitation," the repair or improvement of a residential housing unit to provide sanitary, decent, and safe residential housing; to meet the requirements for Federal Housing Administration (FHA) mortgage insurance, the South Dakota electrical code, article 20:44, or the South Dakota plumbing code, article 20:54; to increase energy efficiency; or to otherwise prevent the creation or recurrence of slum conditions and substandard housing;

(11) "Rental unit," residential housing unit intended for occupancy by a single family within an authority-financed housing development;

(12) "Reserve program," a program established by the authority which provides financing from various reserve accounts of the authority or from other financial resources available to the authority, excluding proceeds from the sale of bonds or notes pursuant to a bond or note resolution.

Section 2. That ARSD 20:09:01:03 be amended to read as follows:

20:09:01:03. Other authority financing defined. Other authority financing is any loan or financial assistance from the authority, other than an authority mortgage loan, to another entity. Other authority financing includes grants, loan guarantees, subordinated loans, loans whether secured or unsecured, loan participations, equity participations, and loans made by third-party lenders pursuant

to programs established by the authority. Other authority financing does not include low-income housing tax credits, which are awarded in accordance with the Internal Revenue Code of 1986 as amended.

Section 3. That ARSD 20:09:03:04 be amended to read as follows:

20:09:03:04. Notice of appeal procedure. The authority or its administrative agent shall advise an applicant who is refused an authority mortgage loan or other authority financing in detail of the appeals procedure available, and shall provide the applicant in writing with the name, address, and telephone number of the executive director and the name and address of the chair of the board.

Section 4. That ARSD 20:09:03:07 be repealed.

Section 5. That ARSD 20:09:03.01:01 be repealed

Section 6. That ARSD 20:09:03.01:02 be repealed.

Section 7. That ARSD 20:09:03.01:03 be repealed.

Section 8. That ARSD 20:09:03.01:04 be repealed.

Section 9. That ARSD 20:09:03.01:05 be repealed.

Section 10. That ARSD 20:09:03.01:06 be repealed.

Section 11. That ARSD 20:09:04:02 be amended to read as follows:

20:09:04:02. Applications. Applications to the authority shall be made upon forms provided by the executive director.

Section 12. That ARSD 20:09:04:03 be amended to read as follows:

20:09:04:03. Application of federal rules. If a housing development or residential housing unit is financed by an authority mortgage loan which is, in whole or in part, a federally insured mortgage or is otherwise assisted by the federal government, the authority's action in authorizing or refusing such an authority mortgage loan shall bind the applicant to the rules governing the federal program.

Section 13. That ARSD 20:09:05:01 be amended to read as follows:

20:09:05:01. Loans through administrative agents. The authority may purchase loans made by administrative agents to eligible applicants for single-family residential housing units. The board will provide mortgage capital in the amounts to which the administrative agent commits itself through a contract with the authority.

Section 14. That ARSD 20:09:05:02 be amended to read as follows:

20:09:05:02. Loan requirements and restrictions. The authority shall publish and make available the requirements and restrictions applicable to loans for home ownership units.

Section 15. That ARSD 20:09:05:03.04 be repealed.

Section 16. That ARSD 20:09:05:03.08 be repealed.

Section 17. That ARSD 20:09:05:03.09 be repealed.

Section 18. That ARSD 20:09:05:03.10 be repealed.

Section 19. That ARSD 20:09:05:06 be repealed.

Section 20. That ARSD 20:09:05:11 be repealed.

Section 21. That ARSD 20:09:05:12 be repealed.

Section 22. That ARSD 20:09:05:14 be repealed.

Section 23. That ARSD 20:09:05:16 be repealed.

Section 24. That ARSD 20:09:06:01 be repealed.

Section 25. That ARSD 20:09:06:02 be repealed.

Section 26. That ARSD 20:09:06:03 be repealed.

Section 27. That ARSD 20:09:06:06 be repealed.

Section 28. That ARSD 20:09:06:06.01 be repealed.

Section 29. That ARSD 20:09:06:06.02 be repealed.

Section 30. That ARSD 20:09:06:06.03 be repealed.

Section 31. That ARSD 20:09:06:06.04 be repealed.

Section 32. That ARSD 20:09:06:07 be repealed.

Section 33. That ARSD 20:09:06:08 be repealed.

Section 34. That ARSD 20:09:06:09 be repealed.

Section 35. That ARSD 20:09:06:11 be repealed.

Section 36. That ARSD 20:09:06:12 be repealed.

Section 37. That ARSD 20:09:06:13 be repealed.

Section 38. That ARSD 20:09:06:14 be repealed.

Section 39. That ARSD 20:09:06:15 be repealed.

Section 40. That ARSD 20:09:06:16 be repealed.

Section 41. That ARSD 20:09:06:17 be amended to read as follows:

20:09:06:17. Regulation of housing sponsors. As a condition precedent to the initial or final closing of an authority mortgage loan or other authority financing, the applicant shall execute a regulatory agreement with the authority and any other accompanying documents regulating the development, construction or rehabilitation, and operation of the proposed housing development under the act and this chapter. The authority's regulatory agreement shall contain provisions concerning the retention of an equity position by for profit housing sponsors, operational assurance requirements, and related matters to ensure the operational stability of housing developments.

Section 42. That ARSD 20:09:06:19 be repealed.

Section 43. That ARSD 20:09:06:20 be repealed.

Section 44. That ARSD 20:09:06:20.02 be repealed.

Section 45. That ARSD 20:09:06:20.03 be amended to read as follows:

20:09:06:20.03. Rental programs -- Tenant selection plans. Sponsors shall prepare tenant selection plans and shall submit them to the authority staff for review and approval. The plans shall incorporate the income limits and eligibility requirements for occupancy of rental units.

Section 46. That ARSD 20:09:06:20.07 be repealed.

Section 47. That ARSD 20:09:06:21 be repealed.

Section 48. That ARSD 20:09:06:24 be amended to read as follows:

20:09:06:24. Management of multifamily rental housing development. The applicant or owner shall provide, with the concurrence of the executive director, for management of the housing development.

Section 49. That ARSD 20:09:06:25 be repealed.

Section 50. That ARSD 20:09:06:27 be amended to read as follows:

20:09:06:27. Fees and charges. Unless otherwise required or restricted by federal law, the maximum fees and charges which may be levied for the purposes of providing authority mortgage loans or other authority financing for multifamily rental developments are as follows:

(1) A financing fee to the authority not exceeding two and one-half percent of the principal amount of the authority mortgage loan or other authority financing, which may include a nonrecoverable fee of one-tenth of one percent of the estimated principal amount of the financing charged to applicants for preliminary review and determinations; an additional nonrecoverable one-tenth of one percent of the amount of the financing charged to applicants for review beyond the preliminary review stage and the issuance of the authority feasibility letter; and up to two percent charged to an eligible applicant for the provision of the financing;

(2) A servicing fee to the administrative agent not exceeding three-eighths of one percent of the amount of the financing, based on a declining balance;

(3) An administrative fee to the authority not exceeding three-quarters percent of the amount of the financing, based on a declining balance; and

(4) The first time the owner's equity is redefined according to § 20:09:06:06.03, a one-time fee to the authority of up to five percent of the sum of the balances of the residual receipts and the

painting and replacement reserve accounts for the applicable development.

Section 51. That ARSD 20:09:06:29 be repealed.

Section 52. That ARSD 20:09:10:01 be repealed.

Section 53. That ARSD 20:09:10:02 be repealed.

Section 54. That ARSD 20:09:10:03 be repealed.

Section 55. That ARSD 20:09:10:04 be repealed.

Section 56. That ARSD 20:09:10:05 be repealed.

Section 57. That ARSD 20:09:10:09 be repealed.

Section 58. That ARSD 20:09:10:10 be repealed.

Section 59. That ARSD 20:09:10:11 be repealed.

Section 60. That ARSD 20:09:20:01 be repealed.

Section 61. That ARSD 20:09:20:02 be repealed.

Section 62. That ARSD 20:09:20:03 be repealed.

Section 63. That ARSD 20:09:20:04 be repealed.

Section 64. That ARSD 20:09:20:05 be repealed.

Section 65. That ARSD 20:09:20:06 be repealed.

Section 66. That ARSD 20:09:20:07 be repealed.

Section 67. That ARSD 20:09:20:08 be repealed.

Section 68. That ARSD 20:09:21:01 be repealed.

Section 69. That ARSD 20:09:21:02 be repealed.

Section 70. That ARSD 20:09:21:03 be repealed.

Section 71. That ARSD 20:09:21:04 be repealed.

Section 72. That ARSD 20:09:21:05 be repealed.

Section 73. That ARSD 20:09:21:06 be repealed.

Section 74. That ARSD 20:09:21:07 be repealed.

Section 75. That ARSD 20:09:21:08 be repealed.

Section 76. That ARSD 20:09:22:01 be repealed.

Section 77. That ARSD 20:09:22:02 be repealed.

Section 78. That ARSD 20:09:22:03 be repealed.

Section 79. That ARSD 20:09:25:05 be repealed.

An Act to revise and repeal certain administrative rules relating to the South Dakota Housing Development Authority.

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I certify that the attached Act
originated in the

SENATE as Bill No. 57

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 57
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State