



Federal Home Loan Bank
NEW YORK

First Home Clubsm Program Guidelines

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INTRODUCTION	3
FIRST HOME CLUBSM (FHC) MEMBER PARTICIPATION	4
HOUSEHOLD ELIGIBILITY REQUIREMENTS	4
ELIGIBLE AND INELIGIBLE INCOME SOURCES	6
CALCULATING INCOME ELIGIBILITY	8
INCOME DOCUMENTATION REQUIREMENTS	9
SUBMISSION OF FIRST HOME CLUB HOUSEHOLD INFORMATION	10
HOMEOWNERSHIP COUNSELING	10
MEMBER ENROLLMENT OF FIRST HOME CLUB ELIGIBLE HOUSEHOLDS WITH FHLBNY	10
ENROLLMENT TIMEFRAMES	11
FIRST HOME CLUB DEDICATED SAVINGS ACCOUNTS	11
MATCHING FUNDS	12
USE OF MATCHING FUNDS	12
PROGRESS REPORTING	12
HOUSEHOLD TRANSFERS BETWEEN MEMBERS	12
MEMBER SUBMISSION OF 'FUNDING CERTIFICATION PACKAGE' TO FHLBNY	13
COMPLETION AND EXECUTION OF CLOSING DOCUMENTATION	14
SUBMISSION OF CLOSING PACKAGE TO FHLBNY	15
FUNDING METHOD	16
RETENTION PERIOD	16
RECORD RETENTION REQUIREMENTS	16
MONITORING PRACTICES	16
RECAPTURE AND EVENTS OF NON-COMPLIANCE	17
SUSPENSION AND DEBARMENT POLICY	18
CONFLICT OF INTEREST	18



Introduction

The mission of the Federal Home Loan Bank of New York (“Bank” or “FHLBNY”) is to advance housing opportunity and local community development by supporting Members in serving their markets. The FHLBNY meets our mission by providing our Members with access to economical wholesale credit and assistance through our credit products, mortgage finance program, housing and community lending programs, and correspondent services to increase the availability of home finance to families of all incomes. Each year since 1990, the Bank has contributed 10% of its income to the Affordable Housing Program. The funds are allocated between the Affordable Housing Program (“AHP”) and, since 1995, the First Home Clubsm (“FHC”) set aside program.

FHC is a federally mandated program and is managed within regulatory requirements established by the Federal Housing Finance Agency (“FHFA”) 12 C.F.R. Part 1291. The FHC is a set-aside of AHP that is designed to assist first time homebuyers earning 80% or less of the area median income, adjusted by household size, with the purchase of a home.

Assistance is provided in the form of matching funds based on the household’s systematic savings within a dedicated savings account. Based on a 4:1 match of household’s savings, the maximum grant is \$7,500. The matching funds may be used toward the down payment and/or closing costs for the purchase of a home. Additionally, FHC also provides up to \$500 towards the defrayment of non-profit housing agency counseling costs, which will be provided for the use of the household via the Member to the non-profit housing agency. This will be added to the grant resulting in the potential maximum assistance of \$8,000.



First Home Clubsm (FHC) Member Participation

The FHLBNY has an annual FHC Program Allotment and Member Enrollment Cap. Based upon FHLBNY's annual program allotment, each *active* and/or *participating* Member is allotted an individual Member enrollment cap for the year. The FHLBNY may, in its sole discretion, limit the number of households Members enroll in the FHC.

- ❖ *Active Members* are those who have enrolled households within the prior calendar year.
- ❖ *Participating Members* are those who, within the past three calendar years, have either submitted household enrollments or been newly approved to participate in the FHC Program.

Both Active and Participating Members will receive an annual written notification regarding their FHC enrollment cap for the year. Members who do not receive written notification and are interested in participating in the FHC Program should contact FHLBNY. Members that do not originate home mortgages may participate if they originate mortgages through a wholly-owned subsidiary. Only Members in good standing are eligible to participate in the FHC Program. Participation may be revoked at any time at the sole discretion of the FHLBNY including but not limited to where the Member is no longer in good standing with the FHLBNY.

Household Eligibility Requirements

Determining Household eligibility is the responsibility of the Member and must be performed at the time of enrollment. In order to qualify and be eligible for enrollment in the FHC Program the Household must:

- ❖ Meet the definition of a first-time homebuyer. A first-time home buyer, based upon the U.S. Department of Housing and Urban Development ("HUD") definition, 24 C.F.R. § 92.2, is an individual who meets any of the following criteria:
 - An individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This includes a spouse (if either meets the above test, they are considered first-time homebuyers).
 - A single parent who has only owned a principal residence with a former spouse while married.
 - NOTE: In the event that a household is separated from their spouse in addition to the requirements noted above, the household must provide one of the following at the time of enrollment to evidence the separation in order to qualify individually as a first-time homebuyer:
 - Legal separation agreement
 - Court papers filed for divorce
 - An individual who is a displaced homemaker and has only owned a principal residence with a spouse.
 - An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.



- An individual who has only owned a property that was not in compliance with state, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.
- ❖ Reside and agree to purchase in the FHLB NY's district at time of enrollment, namely:
 - New York
 - New Jersey
 - Puerto Rico
 - U.S. Virgin Islands
- ❖ Purchase an eligible property type, namely:
 - 1-4 family home
 - Condominium
 - Cooperative
 - Manufactured home permanently affixed to a foundation
 - New construction must be completed prior to closing
- ❖ Be enrolled through a participating First Home Club Member.
- ❖ Demonstrate a two-year history of receiving a consistent and reliable stream of income. Reliable streams of income include full time employment (defined as ≥ 32 hours a week), pension, disability award, Social Security, Individual Retirement Accounts, or other recurring sources.
- ❖ College enrolled household members are limited to a dependent in the household, eighteen years and older with the exclusion of head or co-head of the household, spouses or partners.

Meet the income guidelines at the time of enrollment with a total Household income of 80% or less of the area median income for their current place of residence, adjusted for family size, as determined under 26 U.S.C. 143(f), Mortgage Revenue Bonds ("MRB"), as published by a State agency or instrumentality. For the U.S. Virgin Islands only, the median family income for the area, as published annually by U.S Department of Housing and Urban Development ("HUD"), is used.

- ❖ Household size is based upon the number of people who will reside in the home being purchased. Divorced or separated households who have joint custody of their children should include the children in their household count, even though the children may live in the household on a part-time basis.
- ❖ Open a dedicated savings account and agree to save systematically on a monthly basis for a minimum of 10 months to achieve an "Equity Goal" as determined by the Household and Member. Any withdrawals from the dedicated savings account must be directly related to the home purchase under the FHC Program.
- ❖ Completion of a homeownership counseling program.



- ❖ Agree to obtain mortgage financing from the Member, or a wholly owned subsidiary of the Member. The rate of interest, points, fees and any other charges for the mortgage financing that are made to the household in conjunction with the FHC subsidy shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms and risk.
- ❖ Agree to sign, at the time of closing, a 5-year Subordinate Mortgage or Declaration of Restrictive Covenant, if applicable, with the Member in the amount of the FHC grant.
- ❖ Ownership of a vacant parcel of land does not constitute a principal residence. A Household that owns vacant land on which it subsequently builds a home will be eligible to receive FHC assistance towards the permanent financing.

Eligible and Ineligible Income Sources

The Member is responsible for verifying sources of annual income for Households enrolled in the FHC program and determining income eligibility. Income eligibility is based on the household's projected annual income, which is determined at the time of enrollment with the Member. The following lists identify what does and does not constitute annual income.

What constitutes "income"?

- ❖ Total anticipated income from all sources for the last two calendar years and year-to-date income (at time of enrollment) received by the Household (even if a member is temporarily absent) and by each additional member of the household 18 years or older.
- ❖ The full amount (at the time of enrollment), before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation of personal services.
- ❖ The reported net income derived from operation of a business or profession averaged over a two (2) year period as evidenced by the income tax returns. If a household owns 25% or greater of a business the applicable business tax returns are to be provided. Net income, depreciation, depletion, amortization and other losses that are not consistent and recurring will be added back to the business cash flow. Any negative income will count as zero. A year-to-date Profit and Loss ("P&L") Statement prepared by the household must be provided. The P&L must state that these numbers are true and accurate and must be signed by the applicable household(s).
- ❖ Full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts.
- ❖ Income consistently derived from stock portfolio earnings, dividends, and other interest income.
- ❖ Net income of any kind of real or personal property.



- ❖ Payment in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- ❖ Automobile allowance.
- ❖ Alimony and Child Support. (Note: If alimony or child support is not received regularly, and this fact is documented, annual support will be determined by averaging the year to date support received and annualizing that average.)
- ❖ Government/Welfare Assistance.
- ❖ All regular pay, special pay and allowances of a member of the Armed Forces.

What does not constitute "income?"

- ❖ Employment derived from individuals (including foster children) under the age of 18 years. Note: Welfare assistance, SSI, and other non-earned income paid to children are included in annual income.
- ❖ Payments received for the care of foster children or foster adults.
- ❖ Non-recurring additions to Household assets (e.g., inheritances, capital gains, insurance policy death benefit payments, settlement for personal/property losses).
- ❖ Amounts received by the household that are specifically for, or in reimbursement of, the cost of medical expenses for any household member.
- ❖ Income of a live-in aide.
- ❖ Mileage reimbursement.
- ❖ Educational scholarships paid directly to a student, educational institution, or a veteran.
- ❖ Earned income tax credits.
- ❖ Unreliable and non-recurring income (e.g., gifts, employee stock option buyouts).
- ❖ The value of food stamp allotments (per §913.106 of the HUD regulations).
- ❖ The special pay to a household member serving in the Armed Forces who is exposed to hostile fire.
- ❖ Deferred periodic payments from supplemental security income and Social Security benefits that are received in a lump-sum amount or in prospective monthly disbursements.



- ❖ Amounts received by the household in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
- ❖ Amounts paid by a state agency to a Household with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled Household member at home.

Calculating Income Eligibility

Prior to enrollment with FHLBNY, the Member should perform comprehensive employment verification and income analysis of each Household in order to determine their income eligibility as well as their potential to qualify for permanent financing based on the Member's underwriting standards.

Although it is not the intention of the FHLBNY to dictate loan underwriting policies, the Member is responsible for ensuring that each Household who is selected to purchase and occupy a FHC subsidized unit meets the eligibility criteria set forth in the AHP Regulation. The FHLBNY uses the following parameters in determining Household income eligibility:

- ❖ Income eligibility is based on the household's projected annual income at the time of enrollment.
- ❖ The time of approved participation in the FHC is the date that the Household is registered with FHLBNY, after having been reviewed for eligibility by the Member and having opened and started systematically saving in a dedicated account.
- ❖ Household income is determined at the opening of the systematic savings account. Any change in a Household's income following enrollment will not adversely impact eligibility.
- ❖ An eligible Household seeking to enroll in the FHC should demonstrate a two-year history of receiving a consistent and reliable stream of income derived through full-time employment, a pension, disability award, Social Security, Individual Retirement Accounts, or other recurring sources. (The FHLBNY will include in its review of household income all sources of earnings, including income derived from overtime, bonuses, commissions, or special allowances.)
- ❖ The net income from the operation of a business or profession averaged over a two (2) year period as determined by the 1040 and if applicable appropriate business Federal Tax Return(s). Depreciation, depletion, and amortization of business income will be included in the income analysis and any negative income will count as zero. A year-to-date P&L Statement prepared by the household. The P&L must state that these numbers are true and accurate and must be signed by the applicable household(s).
- ❖ As a general rule, FHLBNY underwriting standards are as follows:
 - Maximum original Loan to Value ("LTV") is 97.0%
 - Maximum original Loan to Value ("LTV") is 100% for a VA-Guaranteed Loan.



- LTV is calculated using the base mortgage amount.
- Maximum purchase price of \$500,000.
- Maximum Debt to Income (“DTI”) ratio is 45%
 - If the first mortgage has a DTI > 45%, the Member must submit an explanation of household affordability.
- ❖ Any income earned by individuals eighteen years and over that will be living in the subject property must be verified and included in Household income calculations regardless of their inclusion on a loan application, Deed, Mortgage Agreement or Promissory Note. FHLBNY does not recognize income from a co-signor or loan guarantor.
- ❖ Year-end tax return and/or income documentation from the year of enrollment cannot be utilized to support the Area Median Income limit is $\leq 80\%$.

Income Documentation Requirements

Acceptable forms of income source documents at time of enrollment may include the following:

- ❖ Two (2) years most recent signed 1040 Federal Income Tax Returns and any associated schedules, with applicable W-2 Wage Statements and other income statements such as 1099s. Note: 1099’s $\leq \$100$ are not required. If a household has 25% or more ownership interest in a business the applicable business tax returns are required.
- ❖ One (1) month of paychecks with accompanying earnings/deductions statements from within two (2) months of the date of enrollment/account opening. In accordance with industry standards, the pay period end date, not the check date, will be utilized in calculating income.
- ❖ Completed and properly executed Fannie Mae Request for Verification of Employment (Form 1005) reflecting income as of the enrollment date.
- ❖ Social Security Supplemental Income notices reflecting income within the year of enrollment/account opening.
- ❖ Retirement, disability, and/or unemployment benefit statements.
- ❖ Notice of Decision of Public Assistance Benefit.
- ❖ Section 8 Homeownership Voucher Program approval letter.
- ❖ Court orders verifying alimony awards and/or child support payments.



- ❖ Individuals working under contractual agreements (i.e. teachers) must also provide most recent contract in effect within the year of enrollment/account opening. The contracted salary and any additional income listed above salary will be included in the income analysis.

Submission of First Home Club Household Information

The Gramm-Leach-Bliley Safeguard Rule, the Identity Theft Act, Privacy State Laws and FACTA are some of the legislation enacted to protect consumers from identity theft. To protect borrower information that may be utilized to develop a 'credit profile' if intercepted by an unauthorized third party, the FHLBNY requires that all FHC Household information be submitted through a Member's secure file transfer service or through encrypted email.

Homeownership Counseling

The Member must ensure completion of homeownership counseling by the household prior to the purchase of a home. One of the Household applicant(s) executing the Enrollment Terms and Conditions form is required to complete homeownership counseling. The homeownership counseling program must be provided by an organization recognized as experienced in homebuyer or homeownership courses. While the curriculum may vary amongst the agencies the topic of predatory lending should be covered.

Acceptable counseling entities include the following:

1. A counseling agency that is accredited by HUD, a State Government or State Housing Finance Agency (HFA), or the National Industry Standards for Homeownership Education and Counseling.
 - For more information, please refer to the following resources:
 - » HUD: <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>
 - » State Government or State HFA: please check with your state offices
 - » National Industry Standards: www.homeownershipstandards.org/home/consumers.aspx
2. A sponsoring Member providing an "in-house" homeownership counseling program that has prior approval from the FHC Manager.

Through the FHC, the FHLBNY may provide for the use of each household via the Member, up to \$500 at the time of closing, to assist in defraying the cost of the non-profit housing agency counseling. The Member must confirm and maintain a record of the actual cost of the agency counseling.

Member Enrollment of First Home Club Eligible Households with FHLBNY

Households are enrolled with FHLBNY on a monthly basis by approved Members through the *Enrollment Period Report*. Reports are due by the tenth of each month; if the tenth of months falls on a weekend or holiday it will be due the next business day. The report must include Households approved with systematic savings accounts opened in the prior month by the Member. Retro-enrollments are not permitted for the FHC Program.



The report includes a Certification indicating the Member has confirmed the following:

- ❖ The information included in the *Enrollment Period Report* as being true and accurate to the best of its knowledge.
- ❖ The Household's income does not exceed 80% of the family median income, adjusted for Household size, for their current place of residence.
- ❖ The Household(s) are first time homebuyers.
- ❖ The Member has received the FHLBNY *Enrollment Terms and Conditions* ("ETC") form (http://www.fhlbny.com/forms/fhc_104.pdf) from each Household to certify that the information provided to the Member is true and accurate.
- ❖ Files for each Household have been established at the Member's location and contain the documents used to verify income eligibility at time of enrollment.
- ❖ Prior to closing, the Household will have successfully completed a homeownership counseling program.

The FHLBNY reserves the right, in its sole discretion, not to enroll all or any portion of the Households listed in the *Enrollment Period Report*. Retroactive enrollments are not permitted. If extenuating circumstances exist, a Member may contact the FHC at FHC@fhlbny.com.

Enrollment Timeframes

Extensions are at the sole discretion of FHLBNY. The maximum timeframe to close on a home and fund is 24 months from the date of enrollment. Households in a pending status that exceed the 24 month timeframe are automatically withdrawn from the program. Withdrawn households are able to re-enroll in the FHC as new participants. Re-enrollment includes updating all documentation and requirements to the new enrollment date.

First Home Club Dedicated Savings Accounts

The Member will assist each Household in establishing a realistic schedule of systematic savings. The dedicated savings account must evidence continuous and consistent monthly deposits as agreed upon in the *First Home Club ETC Agreement*.

Achieving the equity goal cannot be accelerated by making additional and/or lump-sum deposits. In addition, a pattern of missed and/or lump sum deposits may result in the household being ineligible for the program. The minimum timeframe to meet the equity goal is 10 months. If the outlined requirements have not been met, the FHLBNY at its sole discretion will make the determination as to household eligibility.



Any withdrawals from the dedicated savings account must be evidenced by supporting documentation (i.e. copy of check, invoice, or Loan Estimate), verifying the withdrawal is directly related to the purchase of the home under the FHC Program.

Matching Funds

FHLBNY determines the matching funds based on a 4:1 ratio. For every \$1 deposited into a dedicated account with the Member, under a systematic schedule of savings agreed to by the Member and the Household, the FHLBNY will match with \$4, not to exceed \$7,500 in matching funds per Household.

The FHLBNY will not match funds deposited in other savings accounts including accounts with other institutions. Automatic direct deposits from checking accounts and direct deposits into the dedicated savings account from payroll deductions are acceptable. Funds deposited into the dedicated account that are not the result of systematic savings, will not be included in determining the matching funds.

Use of Matching Funds

The matching funds will be used toward the down payment and/or closing costs for the purchase of a Household's principal residence. FHC funds may also be used in conjunction with other grant programs, including the FHLBNY's competitive Affordable Housing Program. The combined FHC and AHP subsidy shall not exceed \$30,000 per Household.

Matching funds cannot be used for home ownership counseling costs.

Depending upon actual cost incurred as confirmed by the Member, additional funds to a maximum of \$500 may be provided to the Member to defray the costs of a non-profit housing agency providing home ownership counseling to FHC households that successfully close on a FHC grant assisted home.

Progress Reporting

Members are required to notify the FHLBNY of any Households who have ceased to participate in, or no longer qualify for, the FHC Program. A *Member Pipeline Status Report* is issued, at minimum, on a semiannual basis by FHLBNY. Upon receipt of the report, Members are requested to review the status report and update the FHLBNY regarding any changes to the Household's status and to ensure that the Member's records align with the records of the FHLBNY.

Household Transfers Between Members

Transfer of Households from an enrolling Member to another participating Member is permissible whenever the enrolling Member is unable to accommodate the first mortgage financing. The acquiring Member must provide their consent to accept the household through completion of the Transfer Notification Form which is located on the website



at: http://www.fhlbny.com/forms/fhc_115.pdf. A pre-approval from FHLBNY is not required. The executed Transfer Notification Form must be submitted with the Funding Certification package.

Member Submission of 'Funding Certification Package' to FHLBNY

Within five (5) business days of the issuance of the first mortgage commitment, the Member must submit the First Home Club Funding Certification ("Funding Certification"), located at http://www.fhlbny.com/forms/fhc_105.pdf, and accompanying documentation, as outlined below, to the FHC mailbox (FHC@fhlbny.com).

The Funding Certification attests that the information provided by the Member to FHLBNY is true and accurate. Along with the Funding Certification, the following information must be submitted:

- ❖ **Income Documentation**
Documentation reflecting household income should be submitted as referenced under, "Income Documentation for First Home Club Households."
- ❖ **FHLBNY Income Calculation Worksheet**
- ❖ **FHLBNY Child Support Statement**
- ❖ **FHLBNY Employment History Statement**
- ❖ **Copies of FNMA Forms 1003 and 1008**
Copies of FNMA Uniform Residential Loan Application and applicable Uniform Underwriting and Transmittal Summary.
- ❖ **Evidence of Systematic Savings Deposits**
Most recent copy of household's savings statements reflecting continuous and consistent deposits. Withdrawals are evidenced by supporting documentation and be directly related to the purchase of the home.
- ❖ **Evidence of Completion of Homeownership Counseling Program**
Copy of a completion certificate for homeownership counseling from one individual executing the Enrollment Terms and Conditions form is required. Completion certificates cannot be dated older than 2 years at the time the Member submits the Funding Certification Package to FHLBNY.
- ❖ **Copy of Executed *Enrollment Terms and Conditions Agreement***
Agreement must evidence execution at the time of enrollment.
- ❖ **Copy of Member's Mortgage Commitment**
- ❖ **Other documents required at the discretion of the FHLBNY**



At the sole discretion of FHLB NY additional documentation may be requested.

Failure to submit the Funding Certification and accompanying documentation to the FHLB NY within five (5) business days of the issuance of the first mortgage commitment will result in processing delays. Upon completion of the review and approval of the Funding Certification Package, FHLB NY will issue an email to the Member confirming its commitment of FHC funds.

Completion and Execution of Closing Documentation

The following documents, available on our [website](#), must be executed at the closing between the Member and the Household:

- ❖ **FHC Promissory Note (applicable to Puerto Rico and US Virgin Islands only)**
- ❖ **FHC Subordinate Mortgage**
- ❖ **FHC Declaration of Restrictive Deed Covenant (if applicable)**
- ❖ **FHC Certification of Intent to Record**

The documents, with the applicable information, must be completed, subject to the following:

- ❖ Other than the completion of the necessary fields, no alterations may be made to the FHC Subordinate Mortgage or FHC Declaration of Restrictive Deed Covenant.
- ❖ FHC Subordinate Mortgage, or if applicable FHC Declaration of Restrictive Deed Covenant, must be signed by all individuals listed on title to the subject property.
- ❖ If a household receives subordinate financing, provide loan amount, APR and mortgage term.
- ❖ Closing Disclosure reflecting the following details:
 - Full FHC grant amount, must be itemized as “FHC Grant”
 - » If full FHC grant amount is not listed on *Closing Disclosure*, provide applicable Disclosure(s)
 - Not-for-profit counseling agency fee, if applicable
- ❖ In accordance with §1291.6(c)(9) of the AHP Regulation, the Member may provide cash back to a Household at closing in an amount not exceeding \$250 above the sum of the items reflected on the Closing Disclosure as “Borrower Paid Before Closing”. If the household has paid any pre-closing expenses directly related to the acquisition of their dwelling those costs can be deducted from “Cash to Borrower”. Examples include but are not limited to mortgage application fees, credit report fees, appraisal fees, property inspection fees, or down payment costs. If the above calculation still results in having cash in hand exceeding \$250, a principal payment or payment to the monthly mortgage is required.



- ❖ Members must use any FHC grant funds that exceed what is needed at time of closing to cover closing costs and down payment as a credit to reduce the outstanding principal of the first mortgage or as a credit toward the household's monthly payments on the mortgage loan.

Submission of Closing Package to FHLB NY

Fully executed copies of the following closing documents must be returned to the FHLB NY within 15 days of closing:

- ❖ **FHC Promissory Note (applicable to Puerto Rico and US Virgin Islands only)**
- ❖ **FHC Subordinate Mortgage with property legal description as Exhibit A (If a Cooperative provide copy of UCC-1)**
- ❖ **FHC Declaration of Restrictive Deed Covenant , if applicable**
- ❖ **FHC Certification of Intention to Record**
- ❖ **Closing Disclosure**
 - Full FHC grant amount, must be itemized as "FHC Grant"
 - » If full FHC grant amount is not listed on *Closing Disclosure*, provide applicable Disclosure(s)
 - Not -for- profit counseling agency fee, if applicable
- ❖ **Proof of the cost of homeownership counseling is required in the form of a check or invoice (if applicable)**

Copies received must be legible and deemed acceptable to the FHLB NY, in its sole discretion. The documents must be consistent and accurate as to the Household closing, including but not limited to: borrower name, property address, terms, etc.

Re-recording of the subordinate mortgage will be required if the following errors occur:

- Borrower Name:
 - The Member and borrower name should be correct. If the borrower's name is entirely inaccurate (e.g. John Smith vs. John Jones) a revised Subordinate Mortgage needs to be executed and recorded.
 - Typographical errors where the borrowers name can be approximately surmised is acceptable.
- Property Address:
 - Aside from capitalization errors, the property address on the subordinate mortgage or deed restriction must be precise. The street address, zip code and state must be strictly precise to ensure the retention agreement is encumbering the correct subject property in the correct city and state. If the street address, zip code, and/or state is not correct the member will be required to record a revised retention document.
 - Acceptable errors include:
 - If the town name is incorrect but the zip code is correct
 - If the block and section numbers in the legal description are incorrect, but the street address is correct



- ❖ Failure to submit the closing documentation to FHLBNY within the required timeframe may affect the Member's participation status in the FHLBNY FHC Program.
- ❖ FHLBNY reserves the right, in its sole discretion, not to fund a Members' Overnight Investment Account ("OIA") if the required closing documentation is not received within 45 days of closing.
- ❖ The FHC Subordinate Mortgage has been modified to have written notice provided to the Member and the FHLBNY for any sale or refinancing of the subject property prior to the end of the five (5) year Retention Period.

Funding Method

The FHC Program funds subsidy to the Member on a post-closing basis. Within fifteen days of the Household closing on the subject property, a fully executed Closing Package, as detailed above, must be submitted to the FHC Mailbox (FHC@fhlbny.com). After a Member's OIA Account has been credited, an email notification confirming the transfer of funds will be issued to the Member.

FHLBNY reserves a minimum of fifteen (15) days from date of receipt to review the executed closing package and fund or request additional information.

Retention Period

All FHC-assisted households must continue to comply with the requirements of AHP Regulation for a minimal period of time, known as the "Retention Period." The Retention Period for FHC households shall be five (5) years from the date of closing.

Record Retention Requirements

All loan documents shall be maintained by the Member during the five (5) year retention period, plus the current year of maturity and two (2) additional years.

Monitoring Practices

Transfers of title for owner-occupied properties are effectively monitored through legally enforceable FHC Retention Agreements. On an annual basis the FHC will require its participating Members certify households within the five year retention period have not had an event of non-compliance. The Member is responsible for subordination requests during the retention period. In addition the Member is responsible for releasing the FHC Subordinate Mortgage lien after the five year retention period regardless if the first mortgage has been sold to another lender.



Recapture and Events of Non-Compliance

FHLBNY may determine by receiving notification from a Member that FHC subsidy will not be, or is no longer being used for purposes that conform to AHP Regulation. Such a situation would constitute an event of non-compliance which may result in the recapture of FHC subsidy. The subsidy is forgiven on a *pro rata* basis over a 60 month period. If an owner-occupant executes a sale or refinance of his or her FHC-assisted unit during the recapture period, the remaining *pro rata* portion of the FHC subsidy may need to be repaid to the FHLBNY from any *net gain* realized upon the sale or refinancing, unless:

a) Sale, Transfer, or Refinancing Prior to Conclusion of Retention Period

- i. The sale by the household to a low-or moderate income household, defined as having an AMI $\leq 80\%$. The household has fulfilled the conditions of the retention agreement, which terminates the agreement. The new purchaser is not subject to the FHC Subordinate Mortgage and does not have any FHC subsidy repayment obligations.; **or**
- ii. The FHC Subordinate Mortgage terminates at the time of the first refinancing by the FHC-assisted household, in the absence of a net gain. (e.g. rate and term refinance); **or**
- iii. Inheritance of a FHC-assisted home by the heirs of an FHC-assisted owner(s) of the home does not constitute a “sale” or “refinancing” of the home. Upon the death of the FHC-assisted owner, the FHC Subordinate Mortgage terminates and there is no obligation to repay.
- iv. The household refinances or obtains additional subordinate debt (including a home equity loan) prior to the expiration of the five-year Retention Period and the property continues to be subject to a legally enforceable FHC Subordinate Mortgage.

b) Foreclosure

A foreclosure or deed-in-lieu of foreclosure terminates the household’s obligation to repay the subsidy. In addition, when a FHC-assisted home is financed with an FHA-insured first mortgage, an assignment of the mortgage to the Secretary of HUD terminates the household’s obligation to repay.

- i. If authorized by the FHLBNY, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another property that is made subject to a deed restriction or other legally enforceable FHC Subordinate Mortgage or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved FHC application for the remainder of the retention period.

Members notifying FHLBNY of the processing of a recapture need to complete the *Recapture Request Form* ([Form: AHP/FHC-001](#)). The Member is responsible for gathering, reviewing, and retaining all documents utilized when calculating the recapture amount. The recaptured funds will be withdrawn from the Member’s OIA account. If the subsidy subject to recapture remains in the possession of the Member for more than 30 days, the FHLBNY may, in its sole discretion, assess the Member a per diem rate of interest.

The *Recapture Request Form* incorporates a net gain calculation which will allow the household to benefit from funds used to both purchase and invest capital improvements into the property. Net gain is calculated as the difference between the



sales price of the home, or the amount of the new first mortgage after the refinancing of the home, less seller transaction costs, or refinance costs, and the original purchase price and purchase-related closing costs.

If the household made capital improvements to the property which add to the property's value, or prolong the home's useful life, the costs of those improvements may also be deducted. General maintenance and repairs are not considered substantive improvements. Capital improvements can include reconstruction, rehabilitation (can be taken from the Closing Disclosure), addition or other substantive improvements. Evidence documenting improvements, such as invoices and receipts is required to be collected and maintained by the Member.

Examples include but are not limited to:

- » Adding of bath(s) or bedroom(s)
- » Installation of air conditioning
- » New plumbing or electrical wiring
- » Finishing a Basement
- » New roof
- » Paving a driveway

If the net gain on sale or refinance is less than the pro rata portion of the subsidy, only the net gain amount is required to be repaid. A recapture will be waived if the household realizes no net gain at the time of the sale of the property. If either do not apply then the full pro rata portion of subsidy is required to be paid. The Recapture Amount field within the form provides the final calculation.

Events of Non-Compliance

If a household fails to correct an Event of Non-Compliance, the Member is accountable for recovering all FHC subsidy from a household on a "pro rata" basis as determined by FHLBNY. If the Member does not reimburse FHLBNY, the Member's OIA or any other deposits, credits or moneys of the Member then in the possession of the FHLBNY may be debited at the sole discretion of FHLBNY.

A FHC-assisted property may experience an Event of Non-Compliance when it fails to attain a level of performance which was specified and approved at time of enrollment. Examples of Events of Non-Compliance may include, but are not limited to, evidence of fraud or willful noncompliance by a Household, Member or counseling agency.

Suspension and Debarment Policy

If, in the judgment of either the FHLBNY or the FHFA, the Member or counseling agency shows a pattern of noncompliance, or engages in a single instance of flagrant noncompliance with the terms of the AHP regulation, the FHLBNY, either in its sole discretion or under the regulatory direction of the FHFA, may suspend or debar the Member or counseling agency from participation in the FHC.

Conflict of Interest

FHLBNY's Board of Directors has adopted a written policy regarding the Code of Business Conduct and Ethics. Pursuant to this policy, conflicts of interests or attempts to influence any action that would affect the funding of a household are not permitted by the following parties: 1) Members of the Affordable Housing Advisory Council; 2) Members of the Board of Directors; and 3) Bank staff and management.