



Federal Home Loan Bank
NEW YORK

First Home ClubSM

Program Guidelines

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Table of Contents

Introduction	3
Household Eligibility Requirements	3
Eligible and Ineligible Income Sources	5
Calculating Income Eligibility.....	7
Income Documentation Requirements	8
Submission of First Home Club Household Information	9
Homeownership Counseling.....	9
Member Enrollment of First Home Club Eligible Households with FHLBNY.....	10
Program Timeframes	10
First Home Club Dedicated Savings Accounts.....	10
Matching Funds.....	10
Use of Matching Funds	11
Progress Reporting.....	11
Household Transfers	11
Member Submission of ‘Funding Certification Package’ to FHLBNY.....	12
Completion and Execution of Closing Documentation	13
Submission of Closing Package to FHLBNY	14
Funding Method.....	15
Retention Period.....	15
Record Retention Requirements	16
Monitoring Practices.....	16
Events of Non-Compliance and Recapture.....	16
Suspension and Debarment Policy.....	19
Conflict of Interest.....	19

Introduction

Effective April 1, 2019, the Federal Home Loan Bank of New York (“FHLBNY”) is no longer accepting new household enrollments for the First Home ClubSM (“FHC”) Program as the FHLBNY transitions to a more modernized first-time homebuyer Set-Aside program, the Homebuyer Dream ProgramTM. The purpose of the FHC Guidelines is to address requirements for the existing pipeline of households currently enrolled in the FHC Program who will not be impacted by this change.

The FHC Program is a federally regulated first-time Homeownership Set-Aside Program that is governed by the Federal Housing Finance Agency (“FHFA”) rules and regulations governing the FHLBNY’s Affordable Housing Program, 12 C.F.R. Part 1291, as may be amended from time to time (the “AHP Regulations”). The FHC Program assists first time homebuyers with incomes at or below 80% of area median income. 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.

Household Eligibility Requirements

The member is responsible for determining household eligibility must complete this determination by the time of enrollment in the FHC Program. In order to qualify and be eligible for enrollment in the FHC Program the household must:

- ❖ Meet the definition of a “first-time homebuyer”, which, based on the definition by the U.S. Department of Housing and Urban Development (“HUD”), is defined as 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: If an individual is separated from his/her spouse, then the individual must also provide evidence of such separation with a legal separation agreement or legal documents filed with a court seeking a 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 a home 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 , Mortgage Revenue Bonds ("MRB"), as published by a State agency or instrumentality. For the U.S. Virgin Islands only, the area median income, 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.
- ❖ Maintain 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 deed restriction or other legally enforceable retention agreement or mechanism (“Retention Agreement”) , if applicable, with the member in the amount of the FHC grant, which requires (i) notice to the FHLB NY, and in its discretion any designee of the FHLB NY, notice of any sale, transfer, assignment of title or deed, or refinancing of the unit by the household occurring during the AHP five-year retention period; and (ii) repayment of a portion of the subsidy unless the transfer is subject to the repayment exception of the AHP Regulations.
- ❖ For ownership of a vacant parcel of land, which does not constitute a principal residence, a household must subsequently build a home on the land.

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 must 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 Statement (“P&L”) prepared by the household must be provided. The P&L must state that the information contained in the document is accurate and it must be signed by the applicable individual(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 (pursuant to 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

The member is responsible for performing a comprehensive employment verification and income analysis of each household in order to determine its income eligibility as well as its potential to qualify for permanent financing based on the members underwriting standards.

The FHLBNY does not direct member underwriting policies. The member is responsible for ensuring that each household who is selected to purchase and occupy an AHP subsidized unit meets the eligibility criteria set forth in the AHP Regulation. The FHLBNY uses the following parameters to determine 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 must 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 FHLB NY 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 prepared by the household. The P&L must state that these numbers are true and accurate and must be signed by the applicable individual(s).
- ❖ As a general rule, FHLB NY 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 purchased property must be verified and included in household income calculations, regardless of their inclusion on a loan application, deed, mortgage agreement or promissory note. FHLB NY 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

To protect borrower information that is sent to the FHLB NY, all FHC household information must be submitted through a member institution's secure file transfer service or through encrypted email.

Homeownership Counseling

The member must ensure that the household completes homeownership counseling before the purchase of a home. One of the household applicant(s) executing the Enrollment Terms and Conditions form is required to complete the 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:

- ❖ 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

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

The last FHC enrollment report submitted by a member was accepted on April 10, 2019 and no retroactive enrollments will be considered after this date.

Program 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 this 24 month timeframe are automatically withdrawn from the program.

First Home Club Dedicated Savings Accounts

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 Affordable Housing Program General Fund. The combined FHC and AHP subsidy cannot exceed \$40,000 per household. Matching funds cannot be used for home ownership counseling costs.

Depending upon actual cost member 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 promptly 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. Members must review the status report and update the FHLBNY regarding any changes to a household's status to ensure that the member's records align with the records of the FHLBNY.

Household Transfers

Transfer 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: https://www.fhlbny.com/forms_agreements/transfer-notification-form/. A pre-approval from FHLBNY is not required. The executed Transfer Notification Form must be submitted with the Funding Certification package.

Transfers from the First Home Club Program to the Homebuyer Dream Program ("HDP")

For households currently enrolled in the FHC Program which may be interested in transferring to the HDP, the household must qualify under the criteria for the HDP as outlined in the HDP Program Guidelines located on our website at: www.FHLBNY.com. Upon FHLBNY's approval and commitment of funds for the HDP, the household will be withdrawn from the FHC Program.

In the event a commitment under the HDP is not issued, the household will remain enrolled under the FHC Program. Enrollment in both programs is not permitted.

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, which must evidence execution at the time of enrollment.
- ❖ Copy of member's Mortgage Commitment

- ❖ Other documents, which at the discretion of the FHLB NY, 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:

- ❖ **Promissory Note (applicable to Puerto Rico and US Virgin Islands only)**
- ❖ **Subordinate Mortgage**
- ❖ **Declaration of Restrictive Deed Covenant (if applicable)**
- ❖ **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 Subordinate Mortgage or Declaration of Restrictive Deed Covenant.
- ❖ Subordinate Mortgage or the Declaration of Restrictive Deed Covenant must be signed by all individuals listed on title to the subject property.
- ❖ If a household receives subordinate financing, the loan amount, APR and mortgage term must be provided.
- ❖ 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 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 FHLBNY

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

- ❖ **Promissory Note** (*applicable to Puerto Rico only*)
- ❖ **Subordinate Mortgage** with property legal description as Exhibit A (*If a Cooperative provide copy of UCC-1*)
- ❖ **Declaration of Restrictive Deed Covenant** (*if applicable*)
- ❖ **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 FHLBNY, 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* or *Declaration of Restrictive Covenant* will be required if the following errors occur:

- Incorrect Closing Date is listed.
- Member and/or borrower name are inaccurate.
- Errors in the street address, zip code and state. Property information must be strictly precise to

ensure the retention agreement is encumbering the subject property.

- ❖ 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 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

Members are funded on a post-closing basis. Within fifteen (15) 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). Upon review and approval by FHLBNY, a member's OIA Account will be credited and an email notification confirming the transfer of funds will be issued to the member.

The FHLBNY will disburse subsidies under the First Home Club Program only to institutions that are members of the FHLBNY at the time they request a draw-down of the subsidies. If an institution with an approved funding request for grant subsidy loses its membership in the FHLBNY, the FHLBNY may disburse grant subsidies to a member of such Federal Home Loan Bank to which the institution has transferred its obligations, or the FHLBNY may disburse grant subsidies through another Federal Home Loan Bank to a member of that Federal Home Loan Bank that has assumed the institution's obligations under the approved funding request.

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

Upon closing, all FHC 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 is five (5) years from the date of closing. Transfers of title for owner-occupied properties are monitored through legally enforceable FHC deed restrictions or other legally enforceable retention agreements or mechanisms that require notice to the FHLBNY, and in its discretion any designee of the FHLBNY, to be given notice of any sale, transfer, assignment of title or deed, or refinancing of the unit by the household occurring during the five-year Retention Period.

The member must promptly notify the FHLBNY if an FHC household sells, transfers, or assigns title

or deed to the subject property, and the FHLBNY may require members to certify with respect to the retention status of subject properties by FHC households.

The member is responsible for educating the household of its obligations during the retention period, including retaining supporting documentation that an event of non-compliance recapture process identified within [Events of Non-Compliance and Recapture](#).

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

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. On an annual basis members will be required to certify that households within the five year retention period have not had an event of non-compliance.

Events of Non-Compliance and Recapture

FHLBNY may receive notification from a member or through the notice provision in the retention agreements that the FHC subsidy will not be, or is no longer being used, for the purposes permitted under the AHP Regulations. Such a situation would constitute an event of noncompliance which may result in the recapture of a portion of FHC subsidy as required by AHP Regulations, or any other remedies authorized by the Regulations.

Events of Non-Compliance

- ❖ Evidence of fraud or willful non-compliance by a household, member or counseling agency.
- ❖ Sale, Transfer or Refinancing Prior to Conclusion of Retention Period.
- » Pursuant to the FHLBNY AHP Implementation Plan, policies, procedures, guidelines, and instructions, and the Federal Housing Finance Agency's Affordable Housing Program Regulations (12 CFR Part 1291), as may be amended from time to time (the "AHP Regulations," and collectively, the "AHP Requirements"), if an owner-occupant sells, transfers, assigns the title or deed, or refinances the Property during the Retention Period, a portion of the AHP Subsidy may need to be repaid to the FHLBNY. However, if any one of the following conditions outlined in the AHP Requirements are

met, a portion of the Subsidy may not be required to be repaid:

- a) The Property was assisted with a permanent mortgage loan funded by an AHP subsidized advance.
- b) The subsequent purchaser, transferee, or assignee is a low-or moderate- income household, as determined by the FHLB NY pursuant to the AHP Requirements.
 - Note: If a household's income cannot be obtained pursuant to b. above, FHLB NY will use a proxy as a reliable indicator of the subsequent purchaser's income. The sale, transfer, or assignment of an owner-occupied unit by an AHP-assisted household at a price that is at or below the applicable HUD HOME and HTF homeownership value limit for existing housing is a reliable indicator. Should the sales price be less than HUD HOME and HTF value limit, no repayment is necessary.
- c) The portion of the AHP Subsidy required to be repaid under the AHP Requirements is \$2,500 or less.
- d) Following a refinancing, the Property continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism in compliance with the AHP Requirements.
- e) Following an event of foreclosure, transfer by deed-in-lieu of foreclosure, an assignment of a Federal Housing Administration first mortgage to HUD, or death of the AHP-assisted homeowner.

Foreclosure

A foreclosure or deed-in-lieu of foreclosure terminates the household's obligation to repay the grant. In addition, when an AHP-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.

Inheritance

Inheritance of an AHP-assisted home by the heirs of an AHP-assisted owner(s) of the home does not constitute a "sale" or "refinancing" of the home. Upon the death of an AHP-assisted owner, the Retention Agreement (i.e. Subordinate Mortgage), deed restriction or other legally enforceable mechanism terminates and there is no obligation to repay.

Processing of a Recapture

In the event that a member determines a recapture may be required, the member must complete and submit the *Recapture Request Form* located on the FHLB NY website. The *Recapture Request Form* has fields in which to enter pertinent data regarding the recapture process. It will inform the member if a recapture is required and, if so, at what amount.

The complete technical instructions for completing the *Recapture Request Form* are contained in the form itself and in a two-part tutorial, also available on the FHLBNY website. In general, the form contains three sections:

1. **Qualifying Event:** In this section, the member must provide basic information about the event of non-compliance. There is a drop-down menu with several scenarios that may apply to the transaction. Certain events, by regulation, exempt the household from the recapture process. If the event qualifies as an exception, the Member must submit the form to the FHLBNY and retain all applicable supporting documentation.
2. **Proxy:** This section captures the data used to determine if the subsequent purchaser can, by a reliable indicator, be considered to be a low- or moderate-income household. The form makes calculations from data entered regarding the applicable HUD HOME and HTF homeownership value limit.
3. **Repayment:** This section allows for the calculation of both the “pro rata” and “net proceeds minus household investment” recapture amounts. If the lesser of these two calculations is \$2,500 or less, no recapture is necessary.

In the case of a sale, transfer, or assignment of title or deed, “net proceeds” are determined by the sales price minus reasonable and customary costs paid by the household in connection with the transaction and outstanding debt superior to the AHP subsidy lien or other legally enforceable AHP subsidy repayment obligation. In the case of a refinancing, “net proceeds” are determined by the principal amount of the new mortgage minus reasonable and customary costs paid by the household in connection with the transaction and the principal amount of the refinanced mortgage.

“Household investment” includes reasonable and customary costs paid by the household in connection with the original purchase, down payment for the original purchase, capital improvements, and repayment of senior mortgage principal. Certain other costs are deemed by regulation to be ineligible, such as prepaid expenses, initial escrow payments, and closing costs financed through the mortgage and FHA 203(k) loans.

Capital improvements may include reconstruction, rehabilitation (can be taken from the Closing Disclosure), addition or other substantive improvements. General maintenance and repairs are not considered substantive capital improvements. Examples of capital improvements 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

The member is responsible for gathering and reviewing all supporting documents (i.e. construction/home improvement invoices and/or receipts, closing disclosures, mortgage servicing

statements) utilized when calculating the recapture amount. These documents must be submitted to the FHLBNY along with the completed *Recapture Request Form*.

The member is accountable for recovering the grant from a household as determined by FHLBNY. If the member does not reimburse FHLBNY, the member's Overnight Investment Account 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. If the grant 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.

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 Program.

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:

- Members of the Affordable Housing Advisory Council;
- Members of the Board of Directors; and
- FHLBNY staff and management.