# ALABAMA HOUSING FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE BOND POLICY

**INTRODUCTION**

Alabama Housing Finance Authority (“AHFA”) receives tax-exempt bond allocation each year from the State of Alabama. AHFA also administers the State of Alabama’s annual allocation of Low Income Housing Tax Credits (“Tax Credits”) and of funds made available under the HOME Partnership Investments Program (“HOME Funds”).

AHFA dedicates its Tax Credits and HOME Funds to the development of safe, decent and affordable multifamily housing. Because of the availability of these substantial resources for multifamily housing, AHFA’s first priority in the use of its tax-exempt bond allocation is for single family mortgage programs for persons with low to moderate income. To the extent that AHFA’s annual bond allocation exceeds the needs of its single family mortgage program, AHFA’s policy is to make the excess bond allocation available for development of safe, decent and affordable multifamily housing.

In order to enhance the feasibility and stability of multifamily projects constructed through the use of Tax Credits and/or HOME Funds, AHFA’s priority in the issuance of multifamily revenue bonds, whether or not they are tax- exempt, will be for (a) acquisition and renovation of existing affordable housing or (b) new construction of projects in cities or counties in which all existing projects funded by AHFA are not less than ninety percent (90%) occupied at time AHFA receives an application, or alternatively, projects that meet the radius test with respect to projects previously funded by AHFA under the then applicable Housing Credit Qualified Allocation Plan, all as described more particularly below in “PROJECT REQUIREMENTS – *Location and Types of Projects*”.

This document sets forth AHFA’s policy concerning use of tax-exempt bond allocation for the acquisition, renovation and new construction of affordable residential rental housing. This policy also applies to requests for AHFA to serve as a conduit issuer of bonds to be used for multifamily housing developments, whether or not the project to be financed expects to utilize tax-exempt bond allocation or any other source of funding from AHFA, including without limitation Tax Credits or HOME Funds.

**PROGRAM OVERVIEW**

AHFA issues multifamily housing revenue bonds for the acquisition, renovation, and new construction of affordable residential rental housing. The development team should have considerable experience in multifamily rental housing designed for use by low-to-moderate-income tenants to assure the successful completion and operation of the development.

# All applicants must meet all threshold requirements in AHFA’s then applicable Housing Credit State Qualified Allocation Plan.

**Applicants seeking Tax Credits for a bond-financed project must meet the requirements imposed by Section 42 of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”).**

In addition to qualified residential rental bonds under Section 142 of the Internal Revenue Code, AHFA may consider issuing tax-exempt bonds to qualified 501(c)(3) organizations for developments that meet the requirements of Section 145 of the Internal Revenue Code.

# All costs incurred in the application or development process are the sole responsibility of the applicant.

AHFA reserves the right to modify, suspend or amend the Multifamily Housing Revenue Bond Policy at any time, with or without further notice, and AHFA in its sole discretion may impose additional conditions, restrictions, and requirements.

**AMOUNT OF ALLOCATION**

The amount of bond allocation committed to any applicant must be approved by Board of Directors of the AHFA (the “Board of Directors”) prior to the issuance of bonds. All commitments of bond allocation will be for a specific applicant with respect to a specific project on a specific site.

**APPLICATION PROCESS**

## Declaration of Official Intent

Application for Declaration of Official Intent. The initial step for any applicant seeking tax-exempt bond volume cap allocation from AHFA is to submit a written application for a declaration of official intent. The form of application is available at [**www.ahfa.com**](http://www.ahfa.com/) and directly from AHFA upon request. The application will not be deemed submitted until it is complete. A non-refundable application in an amount equal to the amount outlined in the current AHFA Approved Housing Credit Qualified Allocation Plan must accompany the filing of the application submitted for consideration for a Declaration of Official Intent.

Timing for Consideration of Application. If AHFA determines that the application is complete and otherwise satisfactory, AHFA will execute and deliver a written declaration of official intent with respect to the proposed project and bond issue no sooner than 30 days after the date on which the application is deemed complete. The declaration of official intent shall be in form and substance satisfactory to AHFA and its counsel. The Executive Director of AHFA shall have the authority to execute and deliver declarations of official intent on behalf of the AHFA with respect to proposed projects. **AHFA’s execution and delivery of a declaration of official intent for a project offers no assurance that tax- exempt bond volume cap allocation is or will be available for the project. Actual availability of tax- exempt bond volume cap for each project could be affected by a number of variables and will not be finally approved unless and until the Board of Directors adopts a bond resolution with respect to the project.** See “Application Process – *Bond Resolution*” below. In all events, the actual issuance of bonds remains subject to final approval by the Board of Directors in the form of a bond resolution.

Declaration of Official Intent as “Official Action” under Internal Revenue Code. AHFA’s execution and delivery of a declaration of official intent is intended to serve as AHFA’s “official action” for purposes of Section 1.150-2 of the United States Treasury Regulations, or its successor.

Expiration of Declaration of Official Intent. Each declaration of official intent will expire on December 1 in the same calendar year in which the declaration is executed. Upon payment to AHFA of a $500.00 renewal fee, an extension may be requested. AHFA’s policy is to permit one extension of each declaration of official intent for good cause for a period of up to twelve months. Any such extension must be in writing and may be granted by the Executive Director.

## Volume Cap Commitment Agreement; Expiration

Commitment Agreement*.* Following the execution and delivery of a declaration of official intent, AHFA, owner, lender, and credit provider (if any) must execute a commitment agreement in form and substance satisfactory to AHFA (the “Commitment Agreement”). AHFA will not execute a Commitment Agreement with respect to a project unless AHFA has received from the applicant all items and information that the submitted application requires be delivered prior to execution of the Commitment Agreement. The Commitment Agreement permits bond counsel and AHFA’s counsel to commence legal work at the applicant’s expense, regardless of whether the proposed bonds are ever actually issued.

Commitment Fee. At the time the Commitment Agreement is executed, a commitment fee is due from the applicant in an amount equal to the greater of (a) one percent (1%) of the amount of bond allocation requested, or (b) $75,000. If bonds are issued, AHFA will refund the full amount of the commitment fee upon receipt of written confirmation that all costs of issuance have been paid from proceeds of the bonds, including without limitation trustee fees, rating agency fees and the fees and expenses of bond counsel, AHFA counsel and trustee’s counsel. If bonds are not issued for any reason (including without limitation the expiration, after giving effect to any applicable extensions, of a declaration of official intent, Commitment Agreement, or bond resolution), AHFA will apply the commitment fee to pay (a) all fees and expenses of bond counsel and AHFA counsel incurred up to that point, and (b) any unpaid fees or expenses due to AHFA, and after confirming that the foregoing items have been paid in full, AHFA will refund the remainder (if any) of the commitment fee to the applicant.

Expiration of Commitment Agreement. Unless bonds are issued, all commitment agreements shall expire on the earlier of (a) December 1 of the year the Commitment Agreement is signed or (b) the termination date set forth in the Commitment Agreement.

## Bond Resolution

Submissions Required for Bond Resolution. Not less than thirty (30) days prior to the date of the AHFA board meeting at which an applicant wishes for the Board of Directors to consider a bond resolution for approval, AHFA must have received the following:

1. a true and complete copy of the fully executed declaration of official intent with respect to the project (see “Application Process – *Declaration of Official Intent*” above),
2. a fully executed Commitment Agreement for the project in form satisfactory to AHFA (see “*Volume Cap Commitment; Expiration* – Commitment Agreement” above), and
3. payment in full of the commitment fee (see “*Volume Cap Commitment; Expiration* – Commitment Fee” above).

In addition, AHFA will not place a proposed bond issue on the agenda for a Board of Directors meeting unless the proposed bond documents have been submitted in substantially final form and have been approved by AHFA, its counsel and bond counsel prior to the date on which AHFA circulates board packages to the Board of Directors for the meeting, which typically occurs approximately 10 days in advance of the meeting date. The 30-day deadline referenced above is a minimum requirement, and it is highly recommended that applicants deliver all of the above items to AHFA as soon as they are available in order to ensure that AHFA, its counsel and bond counsel have sufficient time to complete the drafting, negotiation and revision of the financing documents before board packages are circulated.

Conditions for Approval. Final approval by the Board of Directors to issue bonds for any project is subject to the following approvals and requirements:

1. final determination of project’s eligibility for Tax Credits (if applicable),
2. form and substance of either (a) the credit enhancement to be provided for the bonds (see *Bond Resolution* – Credit Enhancement” below), or (b) the investment letter to be provided with respect to the bonds (see “*Bond Resolution* – Investment Letter” below),
3. form and substance of all financing documents to be approved in the proposed bond resolution in substantially final form and satisfactory to AHFA, its counsel and bond counsel (see “*Bond Resolution* – Submissions Required for Bond Resolution” above), and
4. the applicant’s full payment of all applicable fees.

Credit Enhancement. The credit enhancement for any proposed bond issue by AHFA must be sufficient to enable the bonds to obtain a rating of A or higher from Moody’s, S&P, or Fitch.

Investment Letter. If proposed bonds do not have credit enhancement sufficient to enable the bonds to receive a rating of A or higher from Moody’s, S&P, or Fitch, the bonds may be sold only to a single “accredited investor” (as such term is defined in Reg. D of the SEC), which signs an investment letter in AHFA’s required form and otherwise acceptable to AHFA in its sole discretion. The investment letter will be a so-called “traveling” investment letter, and the form of the proposed bonds shall provide that such bonds shall be transferred only in accordance with the investment letter. Prospective applicants may obtain a copy of AHFA’s required form of investment letter upon request.

All Terms of Bonds Must be Satisfactory to AHFA. Without limiting any of the foregoing requirements, and in addition thereto, AHFA reserves the right to approve in its sole discretion any proposed transaction structure for the issuance of multifamily housing revenue bonds and the forms of all financing documents, including without limitation financing documents to which AHFA is not a party.

**ISSUANCE OF BONDS**

After the Board of Directors has adopted a bond resolution and all requirements set forth in that resolution have been satisfied, the pre-closing for the bond issue shall take place at AHFA’s offices in Montgomery, Alabama. All parties required to execute documents in connection with an AHFA bond issue are expected to do so in person at the pre-closing. Actual delivery of bonds may take place via the book-entry only procedures established by The Depository Trust Corporation or, in the case of a private placement pursuant to an approved investment letter, by physical delivery to the bondholder in accordance with its instructions.

**ADMINISTRATIVE FEE**

AHFA’s agreement to issue bonds for any project is contingent upon the owner’s payment of an Administrative Fee equal to (a) one eighth of one percent (0.125%) of the outstanding balance of the Bonds, due and payable in advance on the closing date and the first day of October of each year for so long as any amount of the bonds is outstanding, and (b) a prepayment penalty to be calculated in a manner satisfactory to AHFA if the bonds are defeased or retired early. Satisfactory arrangement for ongoing payment of the Administrative Fee is a condition of the AHFA’s financing.

**SPECIAL REQUIREMENTS FOR TAX CREDITS**

For projects receiving Tax Credits, applicants must comply with the requirements of the then applicable Housing Credit Qualified Allocation Plan and the Tax Credit reservation issued by AHFA, including without limitation the payment of a non-refundable reservation fee by remitting a check to AHFA within 30 days of the issuance of the Tax Credit reservation in an amount equal to the amount outlined in the AHFA Approved and Funded Transaction Fee Requirements found at [www.AHFA.com](http://www.AHFA.com).

**PROJECT REQUIREMENTS**

## Location and Types of Projects

AHFA will accept applications for tax-exempt bond volume cap for multifamily residential rental projects throughout the State of Alabama that are (a) new construction projects, which are defined to include both new construction and rehabilitation of projects that are less than 50% occupied at the time of application (“New Construction Projects”), or (b) rehabilitation projects, which are defined to include projects that are at least 50% or more occupied at the time of application (“Rehabilitation Projects”).

AHFA will accept applications for New Construction Projects in a city or county in which AHFA has previously provided funding for any type of project (whether in form of a multifamily bond, Tax Credits, HOME Funds, awards under the Tax Credit Exchange Program or Tax Credit Assistance Program, or any combination of the foregoing) only if the project funded previously in that city or county has been placed in service and is not less than ninety percent (90%) occupied at the time of application; provided, however, that AHFA may consider an exception to this limitation for a proposed New Construction Project that meets the radius test with respect to projects previously funded by AHFA that is described in the threshold requirements of the then applicableHousing Credit Qualified Allocation Plan.

The applicant must provide a market study, in form acceptable to AHFA, demonstrating an adequate market for the proposed units to be financed with any proposed bond issue. If AHFA does not agree with applicant’s market study or feels that the proposed project would adversely impact existing projects or create excessive concentration, AHFA reserves the right to obtain, at the applicant’s expense after prior notice, a market study or other information from an independent consultant for AHFA’s consideration in resolving the matter.

## Occupancy Requirements for All Projects

A “qualified residential rental project” as defined by Section 142 of the Internal Revenue Code must remain in compliance with the applicable set aside test throughout the “qualified project period” as defined by Section 142 of the Internal Revenue Code. A failure to do so can result in the retroactive taxability of the project bonds back to their issue date, as well as recapture of any Tax Credits.

At all times during the qualified project period, the project must meet one of the following set-aside tests:

1. 20/50 percent test – Twenty (20) percent or more of the residential units in the project must be occupied by and rent restricted to individuals whose income is 50 percent or less of the area median income adjusted for size of household; or
2. 40/60 percent test – Forty (40) percent or more of the residential units in the project must be occupied by and rent restricted to individuals whose income is 60 percent or less of the area median gross income, adjusted for size of household.

## Physical Requirements for All Projects

A residential rental project must consist of units containing complete living facilities and which are available to the general public. Complete facilities provide separate space for living, sleeping, eating, cooking, and sanitation.

Residential rental projects must be on a single site or contiguous sites. Sites may be considered contiguous if separated only by one neighborhood street. Intermediate care facilities, group homes, and congregate care facilities are not allowed.

## Special Minimum Requirements for Rehabilitation Projects

All hard construction costs for Rehabilitation Projects must be certified by a capital needs assessment satisfactory to AHFA, which must be submitted with the initial application for a declaration of official intent (a “Capital Needs Assessment”). AHFA reserves the right to engage a third-party construction consultant at the applicant’s expense to verify the scope of work and costs and/or to inspect the development periodically to verify the rehabilitation is as proposed and is proceeding in a timely manner. All work in a Rehabilitation Project must meet applicable building code requirements and AHFA Design Quality Standards.

For rehabilitation of projects not previously funded by AHFA, the application must meet all threshold requirements set forth in the Low-Income Housing Tax Credit Qualified Allocation Plan, except for the minimum rehabilitation expenditure of $20,000 of hard construction costs per qualified low-income unit. For this type of project, AHFA may allow a lower minimum rehabilitation expenditure per unit, but only if supported by a Capital Needs Assessment satisfactory to AHFA

For rehabilitation of projects previously funded by AHFA, the application must meet all threshold requirements set forth in the Housing Credit Qualified Allocation Plan, except that for this type of project, AHFA will require a minimum rehabilitation expenditure of $12,500 of hard construction costs per qualified low- income unit.

In no event may the minimum rehabilitation expenditure be less than the greater of (a) the amount required by Section 42 of the Internal Revenue Code or other applicable law, and (b) $12,500 per qualified low-income unit.

**FEASIBILITY AND COST REQUIREMENTS**

AHFA reserves the right to review and approve in its discretion the economic feasibility, market feasibility and costs for each project proposed to be financed with bonds. AHFA may review this information, including any changes thereto, at any time from receipt of initial application through issuance of bonds.

## Financial and Market Requirements

All developments will be subject to an underwriting review for financial and market feasibility by AHFA in accordance with its then applicable Housing Credit Qualified Allocation Plan.

## Development Cost Review

Each development will be evaluated for comparability and reasonableness of development costs. Costs will be reviewed as to their validity and necessity against previous years' developments, regional data, third party documentation, and other factors and data.

The applicant must be as accurate as possible in providing development cost information. Underestimating could result in insufficient funds being available to successfully complete the development. Overestimating could result

in a development being considered not feasible based on the debt level needed to complete the development. Additional documentation from the applicant may be requested.

The Internal Revenue Code limits the amount of bond issuance cost that may be financed with tax-exempt bond proceeds to 2% of the principal amount of the tax-exempt issue.

**LEGAL REQUIREMENTS AND PLAN UPDATES**

It is AHFA’s intent to issue bonds to finance multifamily residential rental projects only in compliance with applicable law and with AHFA’s then effective policies and procedures, including without limitation its annual Housing Credit Qualified Allocation Plan. Future changes to AHFA’s Housing Credit Qualified Allocation Plan shall be deemed to amend accordingly any provision of this policy that is inconsistent in operation or intent with such changes, and to the extent that any term or condition of this policy conflicts with applicable law, applicable law shall govern.

\* \* \* [End of Policy]