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## Moderate Rental Housing Program

### Article I

#### Development & Management

##### Sec. 8-79a-1. Definitions

- (a) “Commissioner” means the Commissioner of Housing.
- (b) “Department” means the Connecticut Department of Housing.
- (c) “Eligible developer or developer” means

(1) A non-profit corporation incorporated pursuant to Chapter 600 of the Connecticut General Statutes, having as one of its purposes the construction, rehabilitation, ownership, or operation of housing, and having articles of incorporation approved by the commissioner in accordance with section 8-79a-3;

(2) Any business corporation incorporated pursuant to chapter 599 of the Connecticut General Statutes, having as one of its purposes the construction, rehabilitation, ownership, or operation of housing, and having articles of incorporation approved by the commissioner in accordance with section 8-79a-3;

(3) Any partnership, limited partnership, joint venture, trust or association having basic documents of organization approved by the commissioner in accordance with section 8-79a-3, and having as one of its purposes the construction, rehabilitation, ownership, or operation of housing;

(4) A housing authority;

(5) A family or person approved by the commissioner as qualified to own, construct, rehabilitate, manage, and maintain housing under a mortgage loan made or insured under an agreement entered into pursuant to the provisions of Chapter 128 of the Connecticut General Statutes and these regulations.

(d) “Family” means a household consisting of one or more persons, (section 8-39 (t) Connecticut General Statutes).

(e) “Housing authority” means a public body corporate and politic created in accordance with section 8-40 of the Connecticut General Statutes and the commissioner of housing, when exercising the powers of a housing authority pursuant to chapter 129, of the Connecticut General Statutes.

(f) “Housing project” means:

(1) To demolish, clear or remove buildings for any slum area, which work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes or

(2) To provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for families of low or moderate income, which work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, recreational, commercial or welfare purposes and may include the acquisition and rehabilitation of existing dwelling units or structures to be used for moderate or low rental units, or

(3) To accomplish a combination of the foregoing. The term “housing project” also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the reconstruction, rehabilitation, alteration, or major repair of existing buildings or improvements.

(g) “HUD” means the United States Department of Housing and Urban Development.

(h) “Interim loan” means a loan from the commissioner which provides a developer with the funds necessary to develop and construct, acquire or rehabilitate a moderate rental housing project and which is due and payable following cost certification of the project.

(i) “Low and moderate income family” means any family as defined in these regulations which meets the income limits established in accordance with these regulations, and consistent with sections 8-39 (e) and (f) of the Connecticut General Statutes.

(j) “Moderate rental” means a rental which, as determined by an eligible developer with the concurrence of the commissioner of housing, is below the level at which private enterprise is currently building a needed volume of safe and sanitary dwellings for rental in the locality involved; and “moderate rental housing project” means a housing project, receiving state aid in the form of loans, or grants, for families unable to pay more than moderate rental. Such project may include the reconstruction, rehabilitation, alteration, or major repair of existing buildings or improvements.

(k) “Mortgage” means a mortgage deed, deed of trust, or other instrument which shall constitute a lien, whether first or second, on real estate or on a leasehold under a lease having a remaining term, at the time such mortgage is acquired, which does not expire for at least that number of years beyond the maturity date of the obligation secured by such mortgage as is equal to the number of years remaining until the maturity date of such obligation.

(l) “Permanent loan” means a loan from the commissioner for a term not to exceed 50 years, in an amount which does not exceed the certified development cost of a moderate rental housing project and at an interest rate determined from time to time by the state bond commission.

(m) “Adjusted net family income” means the amount of income remaining after all allowable deductions and the 10% income adjustment are subtracted from the gross income.

(n) “Gross income” means the total entire income of all family members from all sources whatsoever before any deductions.

(o) A “Dependent” means a person who resides with the family and derives more than half of his or her total support for the calendar year from the tenant.

(Effective April 21, 1986)

### **Sec. 8-79a-2. Program description**

The state is authorized to extend financial assistance to a housing authority or combination of housing authorities for the development and construction or rehabilitation of moderate rental project through the provision of interim or permanent loans, through a state guarantee of notes issued by a housing authority or a combination of both methods.

The state is also authorized to extend financial assistance to other eligible developers in the form of interim or permanent mortgage loans to assist in the development and construction or rehabilitation of moderate rental housing projects. An eligible developer may receive financial assistance from the state to cover the entire cost of developing a moderate rental housing project, including, but not limited to, the cost of options on sites, site acquisition and preparation, architect’s fees, engineering costs, building construction or rehabilitation, and other related costs.

(Effective April 21, 1986)

**Sec. 8-79a-3. Eligibility conditions****(a) Housing authority:**

(1) The governing body of the municipality must find and declare that there is a need for a housing authority in the municipality in accordance with section 8-40 of the Connecticut General Statutes and establish such authority;

(2) The housing authority must execute a cooperation agreement with the governing body of the municipality to implement section 8-71 of the Connecticut General Statutes;

(3) The housing authority must conduct a public hearing concerning the site for housing for moderate income families in accordance with section 8-74 of the Connecticut General Statutes;

(4) The commissioner may enter into a contract with a housing authority for financial assistance for a moderate rental housing project or projects in accordance with section 8-70 of the Connecticut General Statutes.

**(b) Stock corporations:** Stock corporation shall be eligible for moderate rental funds if;

(1) One or more incorporators executes and files in the manner provided in section 33-285 of the Connecticut General Statutes, a certificate of incorporation, together with an appointment of a statutory agent for service as provided in section 33-296 of the Connecticut General Statutes;

(2) A copy of such endorsed certificate of incorporation certified by the secretary of the state shall be forwarded to the department of housing;

(3) The certificate of incorporation shall meet the requirements of chapter 599, section 33-290 of the Connecticut General Statutes and state as one of its purposes the construction, rehabilitation, ownership or operation of housing;

(4) All stock corporations must file an annual report with the secretary of the state as required by chapter 599 section 33-298 of the Connecticut General Statutes;

(5) The department of housing must be informed in writing of the corporations principal place of business.

**(c) Foreign stock corporations:** All foreign stock corporations shall be eligible for moderate rental funds if;

(1) An application for a certificate of authority to transact business in the state of Connecticut has been executed in the manner provided in chapter 599 section 33-285 of the Connecticut General Statutes and delivered to the secretary of the state accompanied by an appointment of an attorney upon whom process may be served as provided in chapter 599, section 33-400 of the Connecticut General Statutes;

(2) A copy of such endorsed certificate of authority certified by the secretary of the state shall be forwarded to the department of housing;

(3) The certificate of authority shall meet the requirements of chapter 599 section 33-399 of the Connecticut General Statutes and state as one of its purposes, the construction, rehabilitation, ownership, or operation of housing;

(4) A foreign corporation authorized to transact business in the state of Connecticut shall have on file an annual report or any other similar reports required by law in the office of the secretary of the state as required by chapter 599, section 33-406 of the Connecticut General Statutes;

(5) The department of housing must be informed in writing of the corporation's principal place of business.

**(d) Nonstock corporations:** All nonstock corporations shall be eligible for moderate rental funds if

(1) One or more incorporators shall execute and file in the manner provided in chapter 600 section 33-422 of the Connecticut General Statutes, a certificate of incorporation, together with an appointment of a statutory agent for service as provided in chapter 600 section 33-433 of the Connecticut General Statutes;

(2) A copy of such endorsed certificate of incorporation certified by the secretary of the state shall be forwarded to the department of housing;

(3) The certificate of incorporation shall meet the requirements of chapter 600 of section 33-427 of the Connecticut General Statutes and state as one of its purposes the construction, rehabilitation, ownership, or operation, of housing;

(4) All nonstock corporations shall file a biennial report with the secretary of the state as required by chapter 600 section 33-435 of the Connecticut General Statutes;

(5) The department of housing must be informed in writing of the corporation's principal place of business.

(e) **Foreign nonstock corporations:** All foreign nonstock corporations shall be eligible for moderate rental funds if

(1) An application for a certificate of authority to transact business in the State of Connecticut has been executed as provided in chapter 600 section 33-422 of the Connecticut General Statutes, and delivered to the secretary of the state accompanied by an appointment of an attorney upon whom process may be served as provided in chapter 600 section 33-509 of the Connecticut General Statutes;

(2) A copy of such endorsed certificate of authority certified by the secretary of the state shall be forwarded to the department of housing;

(3) The certificate of authority shall meet the requirements of chapter 600 section 33-508 of the Connecticut General Statutes and state as one of its purposes the construction, rehabilitation, ownership or operation of housing;

(4) All foreign nonstock corporations shall file a biennial report with the secretary of the state as required by chapter 600 section 33-514 of the Connecticut General Statutes;

(5) The department of housing must be informed in writing of the corporation's principal place of business.

(f) **Partnerships, limited partnerships, joint ventures, trusts or associations:** All partnerships, limited partnerships, joint ventures, or associations shall be eligible for moderate rental funds if:

(1) all partnerships, limited partnerships, joint ventures, trusts, or associations shall provide the commissioner with a certified copy of their basic documents of organization;

(2) All partnerships, limited partnerships, joint ventures, trusts, or associations must have the construction, rehabilitation, ownership, or operation of housing listed as one of the purposes to be promoted or carried out;

(3) The department of housing must be provided with an up-to-date listing of all individuals who will have any interest whatsoever in the organization along with the current addresses of these individuals.

All developers except housing authorities will be required to show their financial ability to undertake the development of proposed project through the provision of financial statements showing the net worth of the developer and its members, principal stock holders or general partners, a resume of a previous participation and any other financial documents which the commissioner may require. The commissioner may also require a credit report from any appropriate credit reporting agency for his consideration in determining the financial capability of developers.

(Effective April 21, 1986)

**Sec. 8-79a-4. Loan allocation**

The commissioner will establish and from time to time allocate loans or mortgage loans to be provided under section 8-70, of the Connecticut General Statutes, and these regulations. The allocations will be based on

- (a) The availability of the rental subsidies from HUD in the various geographical areas of the state which may be applied to a moderate rental housing project;
  - (b) Any need resulting from a “disaster” as defined in chapter 517 section 28-1 (b) of the Connecticut General Statutes;
  - (c) Any needs as outlined in the three year advisory housing plan as prepared pursuant to section 8-37t of the Connecticut General Statutes, and,
  - (d) Any other statistical data on housing needs as available.
- (Effective April 21, 1986)

**Sec. 8-79a-5. Application and approval procedure (housing authorities)**

The following application and approval steps shall apply to all moderate rental housing program projects to be developed by housing authorities:

- (a) Invitation to submit a preliminary proposal;
  - (b) Submission of a preliminary proposal;
  - (c) Approval of a preliminary proposal by the commissioner;
  - (d) Submission of a formal application;
  - (e) A public hearing conducted by the housing authority pursuant to section 8-74 (1), of the Connecticut General Statutes;
  - (f) Approval of formal application, including preliminary architectural plans and drawings;
  - (g) Submission by housing authority of basic and final architectural plans and drawings and approval of same by the commissioner;
  - (h) State bond commission approval of allocation of funds.
  - (i) Issuance of a loan commitment letter to the housing authority;
  - (j) Authorization from the commissioner to put the proposed project out to bid; and
  - (k) Approval by the commissioner of the applicant’s proposed methods of financing, the proposed rents, the income limits for admission and continued occupancy, and a detailed estimate of the expenses and revenues pursuant to Section 8-74 (3) of the Connecticut General Statutes.
- (Effective April 21, 1986)

**Sec. 8-79a-6. Application and approval procedures**

(Other Developers) The following application and approval steps shall apply to all moderate rental housing program projects to be developed by developers other than housing authorities:

- (a) Invitation to submit a preliminary proposal;
- (b) Submission of a preliminary proposal;
- (c) Approval of preliminary proposal by the commissioner;
- (d) Submission of a formal application;
- (e) A public hearing to be held by the commissioner in the municipality where the proposed project will be located pursuant to section 8-74 (1) Connecticut General Statutes;
- (f) Site approval by the commissioner;
- (g) Approval of formal application by the commissioner;
- (h) State bond commission approval;
- (i) Issuance of mortgage commitment letter to developers; and

(j) Approval of the proposed methods of financing, the proposed rents, the income limits for admission and continued occupancy and a detailed estimate of the expenses and revenues thereof by the commissioner pursuant to section 8-74 (3) of the Connecticut General Statutes.

(Effective April 21, 1986)

**Sec. 8-79a-7. Preliminary proposal, contents and review**

- (a) A brief description of the type of project proposed,
- (b) The proposed location of the project,
- (c) Evidence that the proposed site is properly zoned or that proper zoning will be easily obtainable,
- (d) If a commitment for funds from other sources has been received from HUD or any other evidence of that commitment,
- (e) An estimate of the projected cost of the proposed project,
- (f) A resume of the management experience of the applicant or a designated management agent, and,
- (g) A resume of the applicant's past efforts in the housing field and his financial capability to undertake the proposed project.

The department's review will be based upon the need for housing in the community, the suitability of the proposed site or the availability of structures, and adequacy of the proposed rents, funds from other sources for the project, the apparent capability of the applicant to successfully complete and manage the housing, the quality of the preliminary proposal and its conformance with the allocation of loans made by the commissioner. An applicant whose preliminary proposal is rejected will be notified of the reasons for the rejection.

(Effective April 21, 1986)

**Sec. 8-79a-8. Formal application contents**

- (a) **Housing authority:**
  - (1) A cooperation agreement between the housing authority and the municipality pursuant to section 8-71 of the Connecticut General Statutes,
  - (2) A resume including any previous participation in department programs,
  - (3) Documented evidence of any commitment for funds from other sources,
  - (4) An estimate of the cost of the project,
  - (5) Evidence that the proposed project is an agreement with the municipality's housing assistance plan (HAP) if one is in existence.
  - (6) Preliminary architectural plans and drawings,
  - (7) Architect's letter of intent,
  - (8) Evidence of planning and zoning commission approval,
  - (9) A rent schedule,
  - (10) Standards of tenant eligibility and continued occupancy, and
  - (11) Income limits pursuant to section 8-72a of the Connecticut General Statutes.
- (b) **Other developers:**
  - (1) A copy of the latest financial statements of the applicant and its principal members,
  - (2) A statement authorizing the commissioner to apply for a credit report from any appropriate credit reporting agency covering the applicant and its principal members,
  - (3) Documented evidence of any commitment for rental subsidy funds from other sources.
  - (4) An estimate of the projected cost of the project,

(5) Evidence that the proposed project is in agreement with the municipality's housing assistance plan, if one is in existence,

(6) Preliminary architectural plans and drawings,

(7) A rent schedule,

(8) Standards of tenant eligibility and continued occupancy, and

(9) Income limits pursuant to section 8-72a, of the Connecticut General Statutes. The commissioner may, from time to time, request additional submissions to meet the special circumstances of a specific proposal.

(Effective April 21, 1986)

#### **Sec. 8-79a-9. Commissioner review**

The commissioner will review the application according to the previously stated criteria and will notify the applicant of his acceptance or rejection of the application within a reasonable period of time. If an application is rejected, the applicant will be notified of the reasons for the rejection.

(Effective April 21, 1986)

#### **Sec. 8-79a-10. Mortgage and loan terms**

The commissioner is authorized to make interim and permanent loans for the development and construction or rehabilitation of a moderate rental housing project to eligible developers. Any interim or permanent loan to a developer other than a housing authority must be secured by a mortgage on the moderate rental housing project on terms and conditions satisfactory to the commissioner. The commissioner will establish and provide the forms necessary for a housing authority or developer to requisition funds. The terms of the loans shall be as follows:

(a) **Interim Loan:** The interim loan shall be for the period from the closing of the interim loan to the closing of the permanent loan. The interim loan shall bear an interest rate which will be established by the state bond commission and shall in no event be more than the same rate as the interest cost to the state on the notes or bonds issued pursuant to section 8-80 of the Connecticut General Statutes. Payments will be made by the commissioner on the following basis:

(1) first payment at the time of the interim loan closing for all development costs approved by the commissioner which are incurred prior to the interim closing.

(2) Interim payments will be made on a monthly basis based on the actual costs incurred less 10% of the construction if progress is satisfactory to the commissioner. When the project is 50% complete, the total retainage will be reduced to 5% and subsequent payments will be reduced by 5% of the cost of construction.

(b) **Permanent Loan:** The term of the permanent loan shall be for a period not to exceed 50 years. The actual term will be determined by taking into account the financial feasibility of the project and term of any rental subsidy for the project. The interest rate shall be determined by the state bond commission and the amount of the permanent loan shall be for an amount not to exceed the total development cost of the project as determined by a cost certification audit.

(Effective April 21, 1986)

#### **Sec. 8-79a-11. Management by developers**

The developer of a moderate rental housing project shall manage the project in an efficient manner so that the rents can be fixed at the lowest possible level consistent with the provision of decent, safe and sanitary dwelling units.

The rental charges together with other available income shall generate sufficient income to meet the costs of project operation, including but not limited to:

- (a) Property taxes or payment in lieu of taxes,
  - (b) Principal and interest on notes issued by a housing authority,
  - (c) Principal and interest on any loans received under section 8-70, of the Connecticut General Statutes and these regulations,
  - (d) The cost of a state service charge, and
  - (e) The cost of operating and maintaining the project including its administrative costs, and provision of reasonable reserves for repairs, maintenance and replacements, and vacancy and collections losses.
- (Effective April 21, 1986)

**Sec. 8-79a-12. Income limits**

Income limits for all projects developed under chapter 128, part II, of the Connecticut General Statutes, for admission to and, continued occupancy in a moderate rental housing project shall be fixed by developer and approved by the commissioner in accordance with the requirement of chapter 128, part II, of the Connecticut General Statutes: provided that the developer and the commissioner shall take into consideration:

- (a) The income limits that are established from time to time and published in the federal register by the United States Department of Housing and Urban Development for projects receiving financial assistance from the department;
  - (b) The latest average wage as computed by the labor commissioner for the city or town served by the developer;
  - (c) The number of vacancies in the project under the developer's control;
  - (d) The number of applications for admission to tenancy which are refused because of income disqualification pursuant to section 8-72 (a) of the Connecticut General Statutes, and
  - (e) The latest median income as computed by the United States Department of Commerce, Bureau of the Census for the municipality in which the project is located.
- (f) Unless changed by factors (a), above through (e) a maximum income level for admission will be set at the lower income for the area as established from time to time by HUD in the federal register for federal low income housing. The income limit for continued occupancy will be based on 125% of the maximum level.
- (g) A 2% surcharge will be charged on any income in excess of the annual income of such family over that permitted for continued occupancy of such family over that permitted for continued occupancy of such dwelling unit under section 8-72 of the Connecticut General Statutes.
- (Effective April 21, 1986)

**Sec. 8-79a-13. Income sources**

The income of all family members from all sources shall be counted toward the total family income for the purposes of determining eligibility for admission to and for continued occupancy in a moderate rental housing project. Projects operated pursuant to contracts with HUD, shall be subject to its regulations concerning income.

(Effective April 21, 1986)

**Sec. 8-79a-14. Rent determination**

Rents shall be based upon a percentage of family income.

- (a) In projects where a federal subsidy is available, the percentage of family income used to establish the rental will be determined by the federal agency (HUD).
- (b) In projects where no federal subsidy exists, a base rental shall be established and the lessee will pay:

(1) A base rent established by using a percentage of the HUD very low income limits for each geographical area in the state as published from time to time in the federal register for federal low income housing. The percentage will be recommended by the developer and approved by the commissioner of the department of housing.

(2) Or, a percentage of the adjusted net family income up to the established continued limits not to exceed a percentage as established by the developer and the commissioner of the department of housing, or the base rent as noted in item (1) whichever is greater.

(c) The following items shall be deducted from the total (gross) family income to arrive at adjusted net family income.

(1) Income from all dependents who have not reached their 18th birthday, including income received as compensation for the care of foster children, and the state department of children and youth services (DCYS) adoption program.

(2) Income from full-time students who have not reached their 23rd birthday.

(3) Annual medical expenses which exceed 3% of the family's gross income.

(4) Child care costs which enable one or both parents to be gainfully employed, and alimony payments ordered by the courts for dependents and certified as paid.

(5) Each dependent as defined by the internal revenue service, will be allowed a deduction of \$750. This amount may be adjusted from time to time by the commissioner of housing in his sole discretion.

(6) Any other item which may from time to time be determined by the commissioner of housing.

(7) An amount which equals ten percent of the difference between total family income, less deductions 1 through 6.

(8) The utility allowance shall be determined by the prevailing rates and the average energy consumption of like units in the project and or other data available to the developer. The percentage of adjusted net family income may be adjusted at the request of the developer and at the discretion of the commissioner.

(d) In the event that the tenant is self employed, the following shall be utilized to compute tenant income:

(1) Gross income.

(2) Allowable deductions including the cost of goods sold, insurances, salary expenses to employees, etc.

(3) Depreciation shall not be considered an allowable expense.

(4) If the developer permits the tenant to use the dwelling unit as an office, the rental and other necessary expenses of the unit shall not be allowable deductions from income for the purposes of rental computation.

(e) For purposes of translating the federally published low income limits chart to a basis for use in determining a percentage for any particular unit size, the following conversions shall be used.

Size of Unit	Column for federal register
1 Bedroom	2 Persons
2 Bedroom	3 Persons
3 Bedroom	4 Persons
4 Bedroom	6 Persons
5 Bedroom	7 Persons

(f) Where rental increases fall into the following categories, rental increases may be phased in by using the following table.

\$1.00—\$25.00 — 1 Year  
\$26.00—\$50.00 — 2 Year  
\$51.00—\$100.00 — 3 Year

A rental increase exceeding the \$100.00 figure may be phased in and adjusted by the developer with the approval of the commissioner of the department of housing.  
(Effective April 21, 1986)

**Sec. 8-79a-15. Rent increase**

The following procedures shall be followed by all developers for any proposed rent increases: These regulations do not apply to rent increases based on circumstances such as family income or composition.

(a) A 30 day written notice mailed to all tenants that a change in the rent schedule will be considered by the developer, at its next meeting, (include the date and time of the meeting) and may result in a rent increase.

(b) Advise tenants that they may submit written comments to the developer within the 30 day period, and that they may review any documents supporting the proposed rent increase which will be on file at the office of the developer. Also, tenants may attend the meeting and make comments at that time.

(c) At the end of the 30 day period, the developer shall submit within 15 days to the commissioner, its recommended management plan plus all tenant comments.

(d) Within 30 days after receipt of the developer's recommendation the commissioner will approve, disapprove, or request modification of the rent increase or any portion thereof.

(e) If the rent increase is approved by the commissioner, the developer must then give the tenants at least 30 days written notice prior to the effective date of the rent increase.

(Effective April 21, 1986)

**Sec. 8-79a-16. Continued occupancy, income verification**

(a) In the case of federally assisted projects, federal rules will apply.

(b) **Period covered for verification of income:** For the purpose of determining eligibility for continued occupancy, the annual income verification period shall be the calendar year January 1 to December 31.

(c) Full calendar year occupancy must be completed and duly signed by each lessee who has been in continuous occupancy during the full calendar year covered.

(d) **Form of application:** The application for continued occupancy shall be substantially in the form prescribed by the commissioner of housing and shall have imprinted thereon the following:

(1) Penalty for false statement of any person who makes a false statement concerning the income of the family for which application for admission to or continued occupancy of housing projects is made may be fined not more than five hundred dollars or imprisoned not more than six months or both. (chapter 128, section 8-72 of the Connecticut General Statutes).

(2) The following language shall be contained in an application for continued occupancy: "The statements made by me in this application for continued occupancy are true to the best of my knowledge, for the purpose of verifying income at the time of signing this application. I have no objection to inquiries by the developer concerning my qualification for the purpose of income verification only. I agree to notify the developer immediately of any change in the statements or information required."

(e) **Application to tenants:** Immediately after December 31 each local authority and developer shall send applications for continued occupancy to all tenants in occupancy for one full calendar year. These applications are to be completed by the tenants and returned to the local authority on or before February 15. Upon completion of the applications of tenants for continued occupancy each developer shall prepare a list of all overincome tenants on the prescribed form for transmittal to the commissioner of housing on or before March 1. Any tenant who, without just cause, fails to report shall be considered overincome. This list shall be based on reports submitted by the tenants. Verification of such reports is a continuing responsibility of each developer.

(f) **Notification to overincome tenants.** (Section 8-73 of the Connecticut General Statutes, as amended.) **Eviction of families having income over maximum limits, waiver of eviction requirement:** A tenant in a moderate rental housing project shall vacate the dwelling unit occupied by him not later than sixty days after the housing authority or developer has mailed to such tenant, properly addressed postage prepaid, written notice that the annual income of such tenant's family, determined under section 8-72, of the Connecticut General Statutes is in excess of that permitted for continued occupancy of such dwelling unit under said section. Upon the failure of such tenant to vacate such dwelling unit on or before the expiration of such sixty-day period and so long as such tenant continues to occupy such dwelling unit after the expiration thereof, such tenant shall be obligated, notwithstanding the provisions of section 8-72 of the Connecticut General Statutes to pay to the developer monthly, as rent for such dwelling unit an amount equal to the going rental therefore as fixed by the developer plus an amount equal to two percent of the excess of the annual income of such family over that permitted for continued occupancy of such dwelling unit under section 8-72 of the Connecticut General Statutes.

The written notice specified in Section 8-73 of the Connecticut General Statutes (eviction of families having income over maximum limits) shall be sent on or before March 1. If such notice is not delivered by this date, the department of housing should be so informed and advised of the reasons. This notice shall specifically state that the lease expires on April 30 and any holdover tenancy shall be subject to surcharges as required in section 8-73. The sixty-day period specified thereunder shall be the period March 1 to April 30 inclusive. A sample copy of the official notification shall be sent to the department of housing.

(g) **Legal procedure for eviction:** Legal proceedings for eviction may be instituted by the developer against all overincome tenants after the expiration of the sixty-day notice (April 30) unless the time period has been extended due to extenuating circumstances such as, the head of the family is called into military service or the tenant is in the process of purchasing or building a home and other justifiable reasons.

(h) Any overincome tenant may reapply for continued occupancy within the period of the sixty day notice to vacate. Such reapplication must be filed on or before April 15.

If the reverification based on income for the first three months of the current year on or before April 15 indicates that the tenant is still overincome but for a lesser amount than for the previous calendar year, then the new income figure arrived at a projected basis shall be the basis for determination of the surcharge effective May 1. If the projected rate upon reverification exceeds the income for the previous calendar year the lower income shall be used to establish the surcharge amount except those under eviction proceeding for non-compliance.

All overincome tenants subject to a surcharge on May 1 and who continue in occupancy thereafter shall file an application for continued occupancy as of June

30 covering family income for the first six months of the current year. Such reapplication must be filed on or before July 15. The sanctions which may be imposed for failing to meet the April 30 deadline are applicable for failing to meet the July 15 deadline. Such income shall be projected to an annual base and reclassification made as follows:

(1) Tenants whose projected annual income within the applicable maximum income limits for continued occupancy shall be declared eligible for continued occupancy without further imposition to surcharges effective August 1.

(2) Tenants whose projected annual income exceeds the applicable maximum income limits but whose projected income is less than annual income reported for the prior year shall be eligible for a reduction in the monthly surcharge based on the projected income. Such reduction shall be effective August 1.

(3) Tenants whose projected annual income exceeds the applicable maximum limits but whose projected income is greater than the annual income reported for the prior year shall be subject to an increase in the monthly surcharge effective August 1. No advance notice of rent adjustment is necessary as the tenant is occupying the premises on a use and occupancy basis and, therefore, not subject to any time limit notice as may be prescribed in the lease.

All overincome tenants subject to a surcharge on August 1 may file a reverification of income for the first 9 months projected income if such projected produces a lower surcharge. The lower surcharge will be levied on November 1.

**(i) Emergencies:**

(1) In the event of the death or total disability of any tenant resulting in the complete loss of the earning power of a tenant whose account is being surcharged or in the case of a sudden unavoidable loss of employment or income due to no fault of the wage earner. The local authority or developer may, subject to the approval of the department of housing, immediately cancel or appropriately reduce the surcharge amount.

(j) For tenants who are seasonally employed, (j) are employed in a second job for a position of the year, such as construction workers, teachers, agricultural workers, municipal employees, etc., and in their annual income verification are overincome for the preceding two years, but who on the reverification are under the maximum income limits, their income shall be based on the average income for the preceding two year period.

(Effective April 21, 1986)

**Sec. 8-79a-17. Failure to comply with reverification of income**

Failure of the tenant to comply with the reverification of income regulations for the dates prescribed in section 8-79a-16 (b).

In the event that it is determined that, based on verified income data, the tenant's rental should have been an amount which exceeds the amount actually paid by the tenant, the tenant shall be charged the higher rental retroactive to the date said rental was due.

Based on the fact that, due to the tenant's failure to file income data to the developer, the developer has had to spend considerable effort to enforce the income reverification regulations, in the event that it is determined that the amount paid by the tenant exceeds the amount which should have been paid, no refund or credit shall be made to the tenant.

(Effective April 21, 1986)

**Sec. 8-79a-18. Financial reporting and access to records**

(a) Each developer shall maintain complete and accurate books and records, insofar as they pertain to state moderate rental housing projects, and they shall be set up and maintained in accordance with the latest manual approved by and available from the commissioner.

(b) Financial statements consisting of a balance sheet, operating statement and analysis of reserves shall be prepared quarterly for each administrative fund and submitted to the day commissioner not later than on the last of the following month. Prior to the completion of the construction or rehabilitation of the project, quarterly financial statements shall also be submitted showing program costs to date and costs as budgeted along with the balance sheet.

(c) Each developer (except housing authorities) shall furnish to the commissioner within ninety days after the end of each fiscal year of the developer, audited financial statements of developer which shall include statements of

- (1) Assets, liabilities and partners' equity.
- (2) Revenues and expenses and,
- (3) Change in assets, liabilities and partners' equity.

setting forth in each case, in comparative form, the corresponding figures for the preceding fiscal year in reasonable detail, including all supporting schedules and comments, all of which shall be reported on by an independent certified public accountant of recognized standing registered to practice in the state of Connecticut, selected by the developer and satisfactory to the commissioner, as modified to reflect reporting for income tax purposes (such modification to be explained in the financial statements), to be explained consistently by the developer for each fiscal year, except for inconsistencies explained in such reports.

(d) Each developer (except housing authorities) shall obtain from its independent certified public accountant, and furnish to the commissioner together with each statement referred to in subsection (c) of section 8-79a-18, a written statement indicating that said accountants have obtained no knowledge of any default by borrower in the performance of any obligation to the state under the mortgage loan documents, or disclosing all defaults of which the accountants have obtained knowledge, provided, however, that in making their examinations the accountants shall not be required to go beyond the limits of generally accepted auditing standards.

(e) Each developer shall furnish the commissioner such additional reports and statements in such manner, in such detail and at such times as he may reasonably prescribe respecting the development and operation of the project.

(f) At any time during regular business hours, and as often as the commissioner may require, permit the commissioner or his representatives full and free access to the accounts, records and books of the developer relative to the project, said permission to include the right to make excerpts or transcripts from such accounts, records and books.

(g) In order to assure financial stability, the developer shall require that credit checks be made on all applicants for moderate rental units.

(Effective April 21, 1986)

**Sec. 8-79a-19. Audit**

Developers will be subject to annual audits of all books and records. Audits will be performed by independent public accountants registered to practice in the state

of Connecticut, or by qualified departmental personnel and shall be conducted in accordance with procedures established by the department.

(Effective April 21, 1986)

**Moderate Rental**

**Sec. 8-79a-20. Definitions**

(a) "Developer's Fee" means a bonus earned by developers that have successfully completed key events in the development process.

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

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

(Effective December 27, 1990)

**Sec. 8-79a-21. Terms and conditions**

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

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

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

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

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

(Effective December 27, 1990)

**Sec. 8-79a-22. Implementation**

The provisions of Section 8-68g-1, except as otherwise provided, shall govern the implementation of the Moderate Rental Housing Program developers' fee.

(Effective December 27, 1990)

**Secs. 8-79a-23—8-79a-40. Reserved**