

Appendices G and H—Open-End and Closed-End Model Forms and Clauses

¶ 2. *Debt cancellation coverage.* The regulation does not authorize creditors to characterize debt cancellation fees as insurance premiums for purposes of this regulation. Creditors may provide a disclosure that refers to debt cancellation coverage whether or not the agreement is considered insurance. Creditors may use the model credit insurance disclosures only if the debt cancellation coverage constitutes insurance under state law.¶

15. In Supplement I to Part 226, under *Appendix H—Closed-End Model Forms and Clauses*, a new sentence would be added to the end of paragraph 11. to read as follows:

Appendix H—Closed-End Model Forms and Clauses

¶ 11. *Models H-8 and H-9.* * * * ¶ The prior version of model form H-9 is substantially similar to the current version and creditors may continue to use it, as appropriate. Creditors are encouraged, however, to use the current version when reordering or reprinting forms.¶

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 14, 1996.

William W. Wiles,

Secretary of the Board

[FR Doc. 96-29639 Filed 11-26-96; 8:45 am]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Part 936

[No. 96-78]

Community Support Requirements

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation on community support requirements. The proposed rule replaces the existing review process with uniform community support standards all Federal Home Loan Bank (FHLBank) members must meet in order to maintain access to long-term FHLBank advances, and review criteria the Finance Board must apply when determining a member's compliance with the statutory and regulatory standards. Consistent with the goals of the Regulatory Reinvention Initiative of the National Performance Review, the proposed rule streamlines the regulatory requirements to reduce the time spent by FHLBank members to prepare and

submit, and the Finance Board to review and process, community support submissions.

DATES: The Finance Board will accept comments on this proposed rule in writing on or before January 27, 1997.

ADDRESSES: Mail comments to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Penny S. Bates, Program Analyst, Community Support Program, Office of Supervision, 202/408-2574, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408-2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901, *et seq.*, and record of lending to first-time homebuyers. See 12 U.S.C. 1430(g)(2). In accordance with section 10(g)(1) of the Bank Act, the Board of Directors of the Finance Board approved a final community support rule, which appears at part 936 of the Finance Board's regulations, in November 1991. See 56 FR 58639 (Nov. 21, 1991), codified at 12 CFR part 936. The current rule establishes a process under which an FHLBank member submits a community support statement, and in some cases, a community support action plan or amended action plan, first to the member's FHLBank and then to the Finance Board for review.

By its terms, the current rule applies to every FHLBank member, although in practice, the Finance Board has applied its requirements only to members that are subject to the CRA. In September 1993, the Finance Board sought public comments concerning application of the community support rule, particularly the CRA factor, to FHLBank members that are not subject to the CRA, that is, credit unions and insurance companies. See 58 FR 46569 (Sept. 2, 1993) (advance notice of proposed rulemaking). Notwithstanding that the

Finance Board received 31 comments in response to the advance notice of proposed rulemaking, it is again specifically seeking comments on how it may apply the CRA factor to FHLBank members that are not subject to the CRA. The Finance Board will consider all comments it receives before taking final action, including comments received in response to the advance notice of proposed rulemaking published in September 1993 and this notice of proposed rulemaking.

Although the Bank Act requires the Finance Board to develop community support standards, see 12 U.S.C. 1430(g)(1), the current rule provides neither definitive standards an FHLBank member must meet in order to maintain access to long-term advances, nor review criteria the Finance Board must apply to decide whether a member has satisfied the statutory or regulatory community support requirements. See 12 CFR part 936. Further, although the number of FHLBank members and community support submissions Finance Board staff must review has increased substantially (from approximately 2,970 to 6,000 members, and 370 to 750 submissions per calendar quarter), the number of Finance Board staff available to review those submissions has not changed. In order to provide appropriate standards and review criteria for determining compliance with section 10(g) of the Bank Act and to ensure adequate review by Finance Board staff, the Finance Board has decided to streamline the regulatory requirements by replacing the existing review process with uniform community support standards and review criteria, thereby reducing the time spent by FHLBank members to prepare and submit, and the Finance Board to review and process, community support submissions. In addition, consistent with section 10(g) of the Bank Act, the proposed community support rule will apply to every FHLBank member regardless of whether the member is subject to the CRA.

II. Analysis of the Proposed Rule

A. Community Support Requirement

Proposed § 936.2 establishes the basic requirement that a FHLBank member selected for community support review must submit a community support statement (statement) to the Finance Board. The Finance Board anticipates selecting a FHLBank member for community support review about once every two years. Consistent with current practice, the Finance Board will select approximately one-eighth of the

members in each FHLBank district for community support review each calendar quarter. To the extent practicable, the Finance Board will select members that are subject to the CRA based on the chronological sequence of their CRA evaluations, and members that are not subject to the CRA based on the chronological sequence of their admittance to membership in the FHLBank System. In any case, the Finance Board will review an institution only after it has been a FHLBank member for one year.

1. Notice Provisions

Proposed § 936.2(b) sets out the notice requirements and the deadline by which members must submit statements to the Finance Board for review. Consistent with current practice, § 936.2(b)(1)(i) of the proposed rule requires the Finance Board to notify each FHLBank of the members within its district that must submit a statement during the calendar quarter. At the same time, the Finance Board must publish a notice in the Federal Register that includes the name and address of each member required to submit a statement during the calendar quarter, and the deadline for submission of the statement to the Finance Board. To provide sufficient time for the member to prepare the required statement, the deadline for submission to the Finance Board must be no less than 45 calendar days from the date of publication of the Federal Register notice. Section 936.2(b)(2)(ii) then requires each FHLBank to provide written notice to its members of their selection for community support review and of the requirement to submit a statement to the Finance Board by the deadline stated in the Federal Register notice.

2. Required Documents

Proposed § 936.2(c) describes the information a member must include in a statement. As noted above, section 10(g)(2) of the Bank Act requires the Finance Board to take into account a FHLBank member's performance under the CRA. See 12 U.S.C. 1430(g)(2); *supra* part I. Changes to the regulations implementing the CRA that took effect on January 1, 1996 generally shift the focus of CRA review and evaluation from process to performance.¹ As of January 1, 1996, the primary federal bank and thrift regulators began conducting revised CRA examinations for small banks (defined in the CRA

regulation as insured depository institutions with less than \$250 million in assets) that focus on lending, investment, and service to the community. This review process now more closely resembles the statutory review required for purposes of community support. Approximately 80 percent of FHLBank members are small banks reviewed currently under the revised CRA examination procedures. The revised CRA procedures will become applicable to the remainder of the FHLBank members that are subject to the CRA on July 1, 1997. To accommodate these changes, eliminate duplicative documentation, and reduce the amount of time spent by FHLBank members in preparing and the Finance Board in reviewing and processing community support submissions, the Finance Board intends to place greater reliance on a member's CRA evaluation. To streamline the review process, proposed § 936.2(c)(1) requires a member subject to the CRA to submit the portion of the public disclosure section of the most recent CRA evaluation provided by the member's appropriate federal financial supervisory agency that contains its CRA rating and the date of the CRA evaluation. For consistency, under § 936.1(j) of the proposed rule, the term "appropriate federal financial supervisory agency" has the same meaning as in the CRA. See 12 U.S.C. 2902(1).

Under section 10(g)(2) of the Bank Act, the Finance Board also must consider a FHLBank member's record of lending to first-time homebuyers. See 12 U.S.C. 1430(g)(2); *supra* part I. This statutory factor will be applied to every FHLBank member under the proposed rule. The Finance Board is revising the meaning of "first-time homebuyer" in § 936.1(m) of the proposed rule to make it consistent with the definition of that term in affordable housing statutes.² To minimize the burden on FHLBank members and the Finance Board, proposed § 936.2(c)(2) requires a member to provide a brief description of its record of lending, or of the assistance it provides, to first-time homebuyers on a Finance Board Community Support Statement Form executed by the member's board of directors or by an

individual duly authorized to act on behalf of the member. The information required by the Community Support Statement Form, which is included at Appendix A, is discussed in detail below.

3. Public Comment Process

Unlike the current rule, which imposes a limited comment acceptance period, § 936.2(d) of the proposed rule permits members of the public to submit comments concerning a member's community support performance to the Finance Board at any time. To encourage the submission of comments, proposed § 936.2(d)(1) retains the current regulatory requirement that the FHLBanks notify interested parties of the members selected for community support review. The Finance Board will consider all public comments it has received concerning a selected member in conducting its community support review of that member.

B. Community Support Standards

Proposed § 936.3 establishes the community support standards a FHLBank member must meet in order to maintain access to long-term advances, and the review criteria the Finance Board must apply in evaluating a member's community support performance. The Finance Board proposes to include standards and criteria for the two mandatory statutory factors—a CRA factor and a first-time homebuyer factor. The Finance Board requests comments on whether the regulation should establish standards and criteria for factors other than those required by statute, such as violations of fair housing, equal credit opportunity, or other laws that prohibit discrimination in lending. Under the current rule, members must submit information concerning such violations as part of their statements.

Under the proposed rule, a FHLBank member that is subject to the CRA will satisfy the statutory and regulatory community support requirements if it meets the performance standards for both the CRA and first-time homebuyer factors, and a FHLBank member that is not subject to the CRA will satisfy the statutory and regulatory community support requirements if it meets the performance standard for the first-time homebuyer factor.

1. CRA Factor

Section 936.3(b) establishes CRA performance standards for FHLBank members that are subject to the requirements of the CRA. Under the proposed rule, a member will be deemed to meet the CRA performance

¹ See 12 CFR parts 25 (Office of the Comptroller of the Currency), 228 (Board of Governors of the Federal Reserve System), 391 (Federal Deposit Insurance Corporation), and 563e (Office of Thrift Supervision).

² See, e.g., 42 U.S.C. 12713(b)(2), (3) (standards established by the Cranston-Gonzalez National Affordable Housing Act that must be used to determine eligibility under any federal program to assist first-time homebuyers); 12 U.S.C. 1701x(d)(10)(H), (M) (U.S. Department of Housing and Urban Development's assistance to low- and moderate-income housing program); 42 U.S.C. 1472(h)(12)(B), (C) (U.S. Department of Agriculture's program to provide loans for housing and buildings on adequate farms).

standard if the rating in the member's most recent federal CRA evaluation is "Outstanding" or "Satisfactory." If the rating in a member's most recent federal CRA evaluation is "Needs to Improve," the Finance Board will place the member on probation for a one-year period. During the probationary period, the member will be eligible to receive long-term advances. If the member's federal CRA rating does not improve before the probationary period ends, the Finance Board will restrict the member's access to long term advances. If the rating in a member's most recent federal CRA evaluation is "Substantial Noncompliance," the Finance Board will immediately restrict the member's access to long-term advances.

2. First-Time Homebuyer Factor

Section 936.3(c) establishes first-time homebuyer standards for all FHLBank members. This is consistent with the goals of the National Homeownership Strategy and the Finance Board's commitments under its National Partners For Homeownership Partnership Agreement. Under the proposed rule, a member may demonstrate compliance with the first-time homebuyer standards in several ways. First, a member that demonstrates to the satisfaction of the Finance Board that it has an established record of lending to first-time homebuyers will be deemed to meet the first-time homebuyer standard. In order to demonstrate this aspect of first-time homebuyer performance, part II(A) of the Community Support Statement Form asks a member to provide the following information: (1) the number of mortgage loans it has made to first-time homebuyers; (2) the dollar amount of the mortgage loans it has made to first-time homebuyers; (3) loans made to first-time homebuyers as a percentage of all mortgage loans it has made; and (4) dollars loaned to first-time homebuyers as a percentage of all mortgage dollars it has loaned. The Finance Board considered establishing bright-line numerical thresholds for first-time homebuyer lending. However, due to the great variety of FHLBank members in terms of size, location, and mission, application of such thresholds might be too harsh in many instances. To take into account the diversity of FHLBank System membership, the Finance Board is proposing to evaluate a member's record of lending to first-time homebuyers on a case-by-case basis. The Finance Board requests comments as to whether the regulation should include specific numerical review criteria or other criteria to evaluate a member's

record of lending to first-time homebuyers.

Alternatively, a member may satisfy the first-time homebuyer standard by demonstrating to the satisfaction of the Finance Board that it has a program under which it actively seeks to lend to first-time homebuyers or to assist potential first-time homebuyers to qualify for mortgage loans. In order to demonstrate this alternative, part II(B) of the Community Support Statement Form asks a member to indicate whether it offers, or participates in, special loan products, financial services, programs, or activities that benefit, serve, or are targeted to, first-time homebuyers. Qualifying activities include special credit products that provide flexible underwriting or qualifying criteria; participation in loan consortia for first-time homebuyer loans; participation in federal, state, or local government homeownership or other related programs like Federal Housing Administration or Veterans Administration mortgage loan programs; cooperation with community or nonprofit groups or national organizations like the Federal National Mortgage Association (also known as Fannie Mae) or the Federal Home Loan Mortgage Corporation (also known as Freddie Mac); counseling programs or other homeownership education activities; marketing plans and related outreach programs; or technical assistance to organizations that assist first-time homebuyers. A member may, but is not required to, attach to the Community Support Statement Form a one-page description of other first-time homebuyer programs or activities in which it is involved. In the one-page attachment, a member may also describe factors that affect its ability to assist first-time homebuyers. The Finance Board solicits comments on whether the regulation or Community Support Statement Form should include any additional or different criteria for evaluating the assistance a member provides to first-time homebuyers or potential first-time homebuyers.

Finally, a member may satisfy the first-time homebuyer standard if it demonstrates to the satisfaction of the Finance Board that it meets a combination of the elements discussed above.

If the Finance Board deems the evidence of first-time homebuyer performance provided by the member to be unsatisfactory, the Finance Board will place the member on probation for a one-year period. During the probationary period, the member will be eligible to receive long-term advances. If the member does not satisfy the first-

time homebuyer performance standard before the probationary period ends, the Finance Board will restrict the member's access to long-term advances. The Finance Board will immediately restrict a member's access to long-term advances if the member fails to provide any evidence of its record of lending to first-time homebuyers.

C. Decisions on Community Support Statements

Proposed § 936.4 sets forth the procedures for review of statements by the Finance Board. To ensure expeditious action on statements, proposed § 936.4(a) requires the Finance Board to act on a statement within 75 calendar days of the date it deems the statement complete. To make certain that the time period provided for review is not unduly restrictive, the proposed rule deems a statement complete, thus triggering the 75-day time period, only after the Finance Board has obtained all of the information required by this part and any other information it considers necessary to process the statement. The proposed rule also permits the Finance Board to stop the 75-day time period if it determines during the review process and notifies the member in writing that additional information is necessary to process the statement. The Finance Board must restart the 75-day time period where it stopped upon receiving the additional required information. The Finance Board will have an additional 10 calendar days to process a statement if it receives additional information on or after the seventieth day of the 75-day time period.

Proposed § 936.4(b) requires the Finance Board to notify a member and the appropriate FHLBank in writing of its determination regarding the member's statement. The notice will identify specifically the reasons for the Finance Board's determination.

D. Restrictions On Access to Long-Term Advances

1. Imposing Restrictions

Proposed § 936.5 sets forth the procedures by which the Finance Board may restrict a FHLBank member's access to long-term advances. Consistent with the current rule, for purposes of this part the term "long-term advance" means an advance with a term to maturity greater than one year. Under § 936.5(a) of the proposed rule, the Finance Board will restrict a FHLBank member's access to long-term advances if it determines that the member:

(1) has not complied with the requirements of part 936;

(2) has submitted a statement that was not approved by the Finance Board; (3) has not received a CRA rating of "Outstanding" or "Satisfactory" before the end of the one-year probationary period described in § 936.3(b)(2) of the proposed rule; or

(4) has not provided first-time homebuyer evidence satisfactory to the Finance Board before the end of the one-year probationary period described in § 936.3(c)(2) of the proposed rule.

Under proposed § 936.5(b), the Finance Board must promptly notify a member and the appropriate FHLBank of its determination to restrict the member's access to long-term advances. The Finance Board must send the notice to the member by certified mail, return receipt requested, and to the FHLBank by regular mail. Proposed § 936.5(c) provides that a restriction on access to long-term advances will become effective automatically on the date the decision notices are mailed.

2. Removing Restrictions

Section 936.5(d) of the proposed rule sets forth the bases for removing restrictions on access to long-term advances imposed by the Finance Board under this part. The Finance Board, in its sole discretion, may remove a restriction on a member's access to long-term advances under two circumstances. First, the Finance Board may remove a restriction if it determines that application of the restriction may adversely affect the safety and soundness of the member. Second, the Finance Board may remove a restriction if it determines that the member subsequently has complied with the requirements of part 936. Since the primary purpose for imposing a restriction on access to long-term advances is to encourage FHLBank members to comply with the community support regulation, the Finance Board believes it should remove such restrictions as soon as the member can demonstrate that it is in full compliance with the regulatory requirements. Therefore, the Finance Board proposes to eliminate the mandatory 180-day waiting period provided in the current rule.

Under the proposed rule, a member may submit a detailed written request to the Finance Board to remove a restriction on access to long-term advances. If a reinstatement request is based on safety and soundness concerns, the request must include a statement from the member's primary federal regulator that application of the restriction may adversely affect the safety and soundness of the member. Proposed § 936.5(d)(3) requires the

Finance Board to notify a member and the appropriate FHLBank of its decision to remove a restriction within 30 calendar days of receipt of the member's request. The Finance Board must send the notice to the member by certified mail, return receipt requested, and to the FHLBank by regular mail. The Finance Board's decision to remove a restriction will become effective automatically on the date the decision notices are mailed.

3. Effect of Restrictions on the Affordable Housing and Community Investment Programs

Under proposed § 936.5(e), if the Finance Board has restricted a member's access to long-term advances under this part, the member will not be eligible to participate in either the Affordable Housing Program (AHP) or the Community Investment Program (CIP). The Finance Board believes that it should not offer a member the opportunity to participate in community lending programs subsidized by the FHLBanks until the member has demonstrated a willingness to use its own resources to meet community lending needs. Accordingly, unlike the current rule, the Finance Board is proposing to limit participation in the AHP and CIP only to members that have met the statutory and regulatory community support requirements. The Finance Board specifically asks for comments on this proposed change.

E. FHLBank Community Support Programs

Under proposed § 936.6(a) and (b), each FHLBank must consult with its Advisory Council to develop and implement initiatives to increase community-oriented mortgage lending and affordable housing finance activities. For purposes of the proposed regulation, the term "community-oriented mortgage lending" has the same meaning as in section 10(i)(2) of the Bank Act. See 12 U.S.C. 1430(i)(2). Consistent with current practice, the proposed rule also requires each FHLBank to establish and maintain a community support program that: (1) provides technical assistance to members; (2) promotes and expands community-oriented mortgage lending and affordable housing finance; (3) identifies opportunities for members to expand financial and credit services in underserved neighborhoods and communities; and (4) encourages members to increase their community-oriented mortgage lending and affordable housing finance activities through the use of monetary and nonmonetary incentives. Examples of

appropriate incentives include discounts or preferred terms on advances to members or awards or technical assistance to nonprofit housing developers or community groups that have outstanding records of participation in community-oriented mortgage lending and affordable housing finance activities. These examples are meant to be illustrative, not exclusive.

To motivate FHLBank members to meet the community support requirements, § 936.5(c) of the proposed rule requires each FHLBank to provide a yearly report to its members that identifies AHP, CIP, and other FHLBank activities, and summarizes community-oriented mortgage lending and affordable housing finance activities undertaken by members, nonprofit housing developers, community groups, or other entities in the FHLBank district, that may provide opportunities for a member to meet the community support requirements. To reduce the regulatory burden imposed on the FHLBanks, the Finance Board has decided to cut the reporting frequency in half.

F. Reports

Section 10(j)(11) of the Bank Act requires each FHLBank Advisory Council to submit annually a report to the Finance Board analyzing the low-income housing activity of its FHLBank. See 12 U.S.C. 1430(j)(11). Since the concept of community support includes initiatives related to affordable housing, the Finance Board believes that the annual report each Advisory Council submits should include an analysis of the community support program and activities of its FHLBank. The Finance Board has included this requirement in § 936.7 of the proposed rule.

Pursuant to section 10(j)(12) of the Bank Act, the Finance Board annually must prepare and submit to Congress a report on FHLBank support of, and use of advances for, low-income housing and community development. See 12 U.S.C. 1430(j)(12)(A). The Finance Board's annual report to Congress must include the annual Advisory Council reports to the Finance Board on the low income housing activity of the FHLBanks. *Id.* 1430(j)(12)(B). The Finance Board intends to include also in its annual report to Congress an analysis of the FHLBanks community support programs and activities.

III. Regulatory Flexibility Act

The proposed rule implements statutory requirements binding on all FHLBank members, regardless of their size. The Finance Board is not at liberty to make adjustments in those

requirements to accommodate small entities. The Finance Board has not imposed any additional regulatory requirements that will have a disproportionate impact on small entities. By streamlining the regulatory requirements, the Finance Board has, to the maximum extent possible, reduced the costs FHLBank members, the FHLBanks, and Finance Board will incur to produce, review, and process the submissions the Finance Board requires in determining whether a FHLBank member has complied with the statutory and regulatory community support requirements. Thus, in accordance with the provisions of the Regulatory Flexibility Act, the Finance Board hereby certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b).

IV. Paperwork Reduction Act

The Finance Board has submitted to the Office of Management and Budget (OMB) an analysis of the collection of information contained in §§ 936.2 through 936.7 of the proposed rule, described more fully in part II of the *Supplementary Information*. The Finance Board uses the information collection to determine whether FHLBank members satisfy the statutory and regulatory community support requirements. See 12 U.S.C. 1430(g); 12 CFR part 936. Only FHLBank members that meet these standards may maintain access to long-term FHLBank advances. See 12 U.S.C. 1430(g). Responses are required to obtain or retain a benefit. See *id.* The Finance Board will maintain the confidentiality of information obtained from respondents pursuant to the collection of information as required by applicable statute, regulation, and agency policy. Books or records relating to this collection of information must be retained as provided in the regulation.

Likely respondents and/or recordkeepers will be institutions that are members of a FHLBank and the Finance Board. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by OMB. See 44 U.S.C. 3512(a).

The estimated annual reporting and recordkeeping hour burden is:

a. Number of respondents.....	3000
b. Total annual responses.....	3000
Percentage of these responses collected electronically	0
c. Total annual hours requested	4010
d. Current OMB inventory.....	20475
e. Difference	16465

The estimated annual reporting and recordkeeping cost burden is:

a. Total annualized capital/startup costs.....	0
b. Total annual costs (O&M)	0
c. Total annualized cost requested	\$155,800.62
d. Current OMB inventory.....	0
e. Difference	\$155,800.62

The Finance Board will accept written comments concerning the accuracy of the burden estimates and suggestions for reducing the burden at the address listed above.

The Finance Board has submitted the collection of information to OMB for review in accordance with section 3507(d) of the Paperwork Reduction Act of 1995, *codified at* 44 U.S.C. 3507(d). Comments regarding the proposed collection of information may be submitted in writing to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Housing Finance Board, Washington, D.C. 20503 by January 27, 1997.

List of Subjects in 12 CFR Part 936

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby proposes to revise title 12, chapter IX, part 936, of the Code of Federal Regulations, to read as follows:

PART 936—COMMUNITY SUPPORT REQUIREMENTS

Sec.	
936.1	Definitions.
936.2	Community support requirement.
936.3	Community support standards.
936.4	Decision on community support statements.
936.5	Restrictions on access to long-term advances.
936.6	Bank community support programs.
936.7	Reports.

Appendix A to Part 936—Community Support Statement Form

Authority: 12 U.S.C. 1422a(a)(3)(B), 1422b(a)(1), 1429, and 1430.

§ 936.1 Definitions.

For purposes of this part:

(a) *Act* means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421, *et seq.*).

(b) *Advance* means a loan from a Bank that is:

- (1) Provided pursuant to a written agreement;
- (2) Supported by a note or other written evidence of the borrower's obligation; and
- (3) Fully secured by collateral in accordance with the Act and part 935 of this chapter.

(c) *Advisory Council* means the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Act and part 960 of this chapter.

(d) *Affordable Housing Program or AHP* means the program each Bank is required to establish pursuant to section 10(j) of the Act and part 960 of this chapter.

(e) *Appropriate federal financial supervisory agency* means the Office of the Comptroller of the Currency for national banks; the Board of Governors of the Federal Reserve System for state chartered banks that are members of the Federal Reserve System and bank holding companies; the Federal Deposit Insurance Corporation for state chartered banks and savings banks that are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation; and the Office of Thrift Supervision for savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation and savings and loan holding companies.

(f) *Bank or Banks* means a Federal Home Loan Bank or the Federal Home Loan Banks.

(g) *Community Investment Program or CIP* means the program each Bank is required to establish pursuant to section 10(i) of the Act.

(h) *Community-oriented mortgage lending* has the same meaning as in section 10(i)(2) of the Act.

(i) *CRA* means the Community Reinvestment Act of 1977, as amended (12 U.S.C. 2901, *et seq.*).

(j) *CRA evaluation* means the public disclosure portion of the CRA performance evaluation provided by a member's appropriate Federal financial supervisory agency.

(k) *Finance Board* means the agency established as the Federal Housing Finance Board.

(l) *First-time homebuyer* means:

(1) An individual and his or her spouse, if any, who has had no present ownership interest in a principal residence during the three-year period prior to purchase of a principal residence.

(2) A displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (l)(1) of this section. For purposes of this paragraph (l)(2), the term *displaced homemaker* means an adult who has not worked full-time, full-year in the labor force for a number of years and, during that period, worked primarily without remuneration to care for a home and family, and currently is unemployed or

underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) A single parent who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (l)(1) of this section. For purposes of this paragraph (l)(3), the term *single parent* means an individual who is unmarried or legally separated from a spouse and has custody or joint custody of one or more minor children or is pregnant.

(m) *Long-term advance* means an advance with a term to maturity greater than one year.

(n) *Member* means an institution admitted to membership and owning capital stock in a Bank.

§ 936.2 Community support requirement.

(a) *Selection for community support review.* The Finance Board shall select a member for community support review approximately once every two years.

(b) *Notice.*—(1) *By the Finance Board.* The Finance Board concurrently shall:

(i) Notify each Bank of the members within its district that are required to submit community support statements during the calendar quarter; and

(ii) Publish a notice in the Federal Register that includes the name and address of each member required to submit a community support statement during the calendar quarter, and the deadline for submission of the community support statement to the Finance Board. The deadline for submission of a community support statement shall be no earlier than 45 calendar days after the date of publication of the Federal Register notice.

(2) *By the Banks.* Within 15 calendar days of the date of publication of the Federal Register notice required by paragraph (b)(1)(ii) of this section, a Bank shall provide written notice to each member within its district that is named in the Federal Register notice, that the member is required to submit a community support statement to the Finance Board by the deadline stated in the Federal Register notice.

(c) *Required documents.* Each member selected for community support review shall submit a community support statement to the Finance Board that includes the following:

(1) *CRA evaluation.* For members subject to the CRA, the page or pages of the most recent CRA evaluation that contain the member's CRA rating and the date of the CRA evaluation.

(2) *First-time homebuyer certification.* For all members, a completed

Community Support Statement Form executed by the member's board of directors or by an individual duly authorized to act on behalf of the member's board of directors.

(d) *Public comments.*—(1) *Notice.* Within 15 calendar days of the date of publication of the Federal Register notice required by paragraph (b)(1)(ii) of this section, a Bank shall provide written notice to its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the name and address of each member within its district that is required to submit a community support statement during the calendar quarter.

(2) *Review.* In reviewing a member for community support, the Finance Board shall take into consideration any public comments it has received concerning the member.

§ 936.3 Community support standards.

(a) *Standards.* In reviewing a community support statement, the Finance Board shall take into account a member's performance under the CRA if the member is subject to the requirements of the CRA, and the member's record of lending to first-time homebuyers.

(b) *CRA factor.*—(1) *Adequate performance.* A member that is subject to the requirements of the CRA shall be deemed to meet the CRA standard if the rating in the member's most recent CRA evaluation is "Outstanding" or "Satisfactory."

(2) *Probationary performance.* A member that is subject to the requirements of the CRA shall be subject to a one-year probationary period if the rating in the member's most recent CRA evaluation is "Needs to Improve." During the probationary period, the member will be eligible to receive long-term advances. If the member does not meet the CRA standard before the probationary period ends, the Finance Board shall restrict the member's access to long-term advances in accordance with § 936.5.

(3) *Inadequate performance.* A member's access to long-term advances shall be restricted in accordance with § 936.5 if the rating in the member's most recent CRA evaluation is "Substantial Noncompliance."

(c) *First-time homebuyer factor.* (1) *Adequate performance.* In determining whether a member meets the first-time homebuyer standard, the Finance Board shall consider a member's description of its efforts to assist first-time or potential first-time homebuyers or its explanation of factors that affect its ability to assist first-time or potential first-time

homebuyers. A member shall be deemed to meet the first-time homebuyer standard if the member demonstrates to the satisfaction of the Finance Board that it:

(i) Has an established record of lending to first-time homebuyers;

(ii) Has a program whereby it actively seeks to lend to first-time homebuyers, including, but not limited to, the following:

(A) Flexible underwriting standards for first-time homebuyers;

(B) Participation in federal, state, or local government, or nationwide homeownership lending programs that serve first-time homebuyers; or

(C) Participation in loan consortia for first-time homebuyer loans; or

(iii) Has a program whereby it actively seeks to assist potential first-time homebuyers to qualify for mortgage loans, including, but not limited to, the following:

(A) Special counseling programs or other homeownership education activities that benefit first-time homebuyers;

(B) Marketing plans and related outreach programs targeted to first-time homebuyers; or

(C) Technical assistance to organizations that assist first-time homebuyers; or

(D) Participation with community or nonprofit groups that assist first-time homebuyers; or

(iv) Has any combination of the elements described in paragraphs (c)(1)(i), (ii), or (iii) of this section.

(2) *Probationary performance.* If the evidence of first-time homebuyer performance is deemed to be unsatisfactory by the Finance Board, the member shall be subject to a one-year probationary period. During the probationary period, the member will be eligible to receive long-term advances. If the member does not meet the first-time homebuyer standard before the probationary period ends, the Finance Board shall restrict the member's access to long-term advances in accordance with § 936.5.

(3) *Inadequate performance.* A member's access to long-term advances shall be restricted in accordance with § 936.5 if the member provides no evidence of first-time homebuyer performance.

§ 936.4 Decision on community support statements.

(a) *Action on community support statements.* The Finance Board shall act on each community support statement in accordance with the requirements of § 936.3 within 75 calendar days of the date the Finance Board deems the

community support statement to be complete. The Finance Board shall deem a community support statement complete when it has obtained all of the information required by this part and any other information it deems necessary to process the community support statement. If the Finance Board determines during the review process that additional information is necessary to process the community support statement, the Finance Board may deem the community support statement incomplete and stop the 75-day time period by providing written notice to the member. When the Finance Board receives the additional information, it shall again deem the community support statement complete and resume the 75-day time period where it stopped. The Finance Board shall have 10 calendar days in addition to the 75-day time period to act on a community support statement if the Finance Board receives the additional information on or after the seventieth day of the 75-day time period.

(b) *Decision on community support statements.* The Finance Board shall provide written notice to the member and the member's Bank of its determination regarding the community support statement submitted by the member. The notice shall identify the reasons for the Finance Board's determination.

§ 936.5 Restrictions on access to long-term advances.

(a) *Requirement.* The Finance Board shall restrict a member's access to long-term advances if the member:

- (1) Failed to comply with the requirements of this part;
- (2) Submitted a community support statement that was not approved by the Finance Board;
- (3) Did not receive a rating in a CRA evaluation of "Outstanding" or "Satisfactory" before the end of the one-year probationary period described in § 936.3(b)(2); or
- (4) Failed to provide evidence satisfactory to the Finance Board of its first-time homebuyer performance before the end of the one-year probationary period described in § 936.3(c)(2).

(b) *Notice.* The Finance Board shall provide written notice to a member and

the member's Bank of its determination to restrict the member's access to long-term advances, the member by certified mail, return receipt requested, and the member's Bank by regular mail.

(c) *Effective date.* Restrictions on access to long-term advances shall take effect on the date the notices required under paragraph (b) of this section are mailed.

(d) *Removing restrictions.* The Finance Board may remove restrictions on a member's access to long-term advances imposed under this section:

(1) If the Finance Board determines that application of the restriction may adversely affect the safety and soundness of the member. A member may submit a written request to the Finance Board to remove a restriction on access to long-term advances under this paragraph (d)(1). A written request submitted under this paragraph (d)(1) shall contain a clear and concise statement of the basis for the request and a statement from the member's appropriate federal financial supervisory agency that application of the restriction may adversely affect the safety and soundness of the member.

(2) If the Finance Board determines that the member subsequently has complied with the requirements of this part. A member may submit a written request to the Finance Board to remove a restriction on access to long-term advances under this paragraph (d)(2). A written request submitted under this paragraph (d)(2) shall state with specificity how the member has complied with the requirements of this part.

(3) Within 30 calendar days of receipt of a request submitted by a member under paragraph (d)(1) or (d)(2) of this section, the Finance Board shall provide written notice to the member and the member's Bank of its determination, the member by certified mail, return receipt requested, and the member's Bank by regular mail. The Finance Board's determination shall take effect on the date the notices are mailed.

(e) *AHP and CIP.* A member that is subject to a restriction on access to long-term advances under this part shall not be eligible to participate in the Affordable Housing Program or the Community Investment Program.

§ 936.6 Bank community support programs.

(a) *Requirement.* Consistent with the safe and sound operation of the Bank, each Bank shall establish and maintain a community support program. A Bank's community support program should:

- (1) Provide technical assistance to members;
- (2) Promote and expand community-oriented mortgage lending and affordable housing finance;
- (3) Identify opportunities for members to expand financial and credit services in underserved neighborhoods and communities; and
- (4) Encourage members to increase their community-oriented mortgage lending and affordable housing finance activities by providing incentives such as awards or technical assistance to nonprofit housing developers or community groups with outstanding records of participation in community-oriented lending or affordable housing finance partnerships with members.

(b) *Advisory Councils.* A Bank shall consult with its Advisory Council to develop and implement initiatives to increase community-oriented mortgage lending and affordable housing finance activities in the Bank district.

(c) *Notice.* A Bank shall provide annually to each of its members a written notice:

- (1) Identifying AHP, CIP, and other Bank activities that may provide opportunities for a member to meet the community support requirements; and
- (2) Summarizing community-oriented mortgage lending and affordable housing finance activities undertaken by members, nonprofit housing developers, community groups, or other entities in the Bank's district, that may provide opportunities for a member to meet the community support requirements.

§ 936.7 Reports.

The annual report Advisory Councils are required to submit to the Finance Board pursuant to section 10(j)(11) of the Act shall include an analysis of the appropriate Bank's community support program and activities.

BILLING CODE 6725-01-U-AA

Appendix A to Part 936—Community Support Statement Form

FEDERAL HOUSING FINANCE BOARD COMMUNITY SUPPORT STATEMENT

(Instructions on Reverse)

Name of Institution: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Docket Number: _____

Contact Person: (Mr./Ms.) _____ Title: _____

Phone Number: (____) _____ Fax Number: (____) _____

I. CRA Factor

Most recent federal CRA Rating: _____ CRA Evaluation Date: _____

[Attach the page(s) of your institution's most recent federal CRA evaluation showing the rating and evaluation date.]

II. First-time Homebuyer Factor**A. Complete the following four questions using data for the past year.**

1. Number of mortgage loans made to first-time homebuyers _____
2. Dollar amount of loans made to first-time homebuyers \$ _____
3. Loans made to first-time homebuyers as a percentage of all mortgage loans _____ %
4. Dollars loaned to first-time homebuyers as a percentage of all mortgage dollars loaned _____ %

B. Check as many boxes as appropriate:

1. In-house first-time homebuyer program (e.g. marketing plans and outreach programs) _____
2. Other in-house lending products that serve first-time homebuyers _____
3. Flexible underwriting standards for first-time homebuyers _____
4. Participate in nationwide first-time homebuyer programs (Fannie Mae, Freddie Mac, etc.) _____
5. Participate in federal government programs that serve first-time homebuyers (FHA, VA, etc.) _____
6. Participate in state or local government programs targeted to first-time homebuyers _____
7. Participate with community groups or organizations that assist first-time homebuyers _____
8. Participate in loan consortia that make loans to first-time homebuyers _____
9. Special counseling or homeownership education benefiting first-time homebuyers _____
10. Technical assistance to organizations that assist first-time homebuyers _____
11. Other (see instructions for Part II) _____

III. Certify that information in this Community Support Statement and the attachments is correct to the best of your knowledge by filling out the information below.

Signed _____ Title _____

Print Name _____ Date _____

(over)

Community Support Statement Instructions

Purpose: To maintain continued access to long-term advances, section 10(g) of the Federal Home Loan Bank Act [12 U.S.C. § 1430(g)] requires the Federal Housing Finance Board (Finance Board) to take into account a Federal Home Loan Bank member's performance under the Company Reinvestment Act of 1977 [12 U.S.C. § 2901 et seq.] (CRA) and its record of lending to first-time homebuyers.

Part I (CRA Factor): All members subject to CRA must complete this section. Indicate your institution's most recent federal CRA evaluation rating and date, and attach to this form the page(s) of that evaluation showing the rating and date. Do not attach the entire CRA evaluation. [If your institution is not subject to CRA, indicate this in the CRA evaluation field on this form.]

If a member's most recent federal CRA evaluation is rated "Needs to Improve," the Finance Board will place that member on a one-year probation, during which it will retain access to long-term advances. If the member does not receive an improved CRA rating before the end of the one-year probation period, its access to long-term advances will be restricted.

If a member's most recent federal CRA rating is "Substantial Non-compliance," the Finance Board immediately will take action to restrict that member's access to long term advances. The restriction will remain in effect until the member's rating improves. (For purposes of Community Support review, the term "long-term advances" means advances with a term to maturity greater than one year).

Part II (First-time Homebuyer Factor): All members must complete this section. An institution may demonstrate assistance to first-time homebuyers in many ways, but the Finance Board is particularly interested in actual loans, products, and services to first-time homebuyers. Although completion of both Section A and Section B is requested, you may satisfy the first-time homebuyer factor by demonstrating adequate lending performance (Section A), by demonstrating participation in programs that assist first-time homebuyers (Section B), or by a combination of both factors. If the information requested in Part II is inadequate to reflect your institution's compliance with the first-time homebuyer factor, you may attach a one-page description of your efforts to assist first-time homebuyers and/or an explanation of factors affecting your institution's ability to assist first-time

homebuyers. No other information beyond this one-page description will be considered.

If a member does not submit evidence of assistance to first-time homebuyers, the Finance Board immediately will take action to restrict that member's access to long term advances. The restriction will remain in effect until the member submits information satisfactory to the Finance Board. (For purposes of Community Support review, the term "long-term advances" means advances with a maturity greater than one year).

Part III (Certification): All members must complete this section. Your institution's board of directors, or an individual duly authorized to act on behalf of the board of directors, must certify that the information in this Community Support Statement and the attachments is correct to the best of its knowledge.

Assistance: Your Federal Home Loan Bank has a Community Support Program that can assist you in preparing your Community Support Statement.

Once you have completed this form, please submit it, along with all attachments, to the Federal Housing Finance Board, Office of Supervision, 1777 F Street, N.W., Washington, D.C. 2006.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

[FR Doc. 96-29747 Filed 11-26-96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-AEA-13]

Proposed Amendment to Class E Airspace; Galax, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Galax, VA. The Development of a new Standard Instrument Approach Procedure (SIAP) at Twin County Airport based on the Global Positioning System has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before December 15, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AEA-530, Docket No. 96-AEA-13, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan Jr., Airspace Specialist, Operations Branch, AEA-530 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96-AEA-13." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel