

---



---

**Rules of**  
**Department of Economic**  
**Development**  
**Division 170—Missouri Housing**  
**Development Commission**  
**Chapter 7—Missouri Housing Trust Fund**

<b>Title</b>	<b>Page</b>
<b>4 CSR 170-7.010</b> Introduction (Rescinded June 30, 2012) .....	3
<b>4 CSR 170-7.020</b> Definitions (Rescinded June 30, 2012) .....	3
<b>4 CSR 170-7.030</b> Preparation of Application (Rescinded June 30, 2012) .....	3
<b>4 CSR 170-7.040</b> Application and Notification Process (Rescinded June 30, 2012).....	3
<b>4 CSR 170-7.050</b> Compliance Requirements (Rescinded June 30, 2012).....	3
<b>4 CSR 170-7.100</b> Introduction.....	3
<b>4 CSR 170-7.200</b> Definitions .....	4
<b>4 CSR 170-7.300</b> Proposal Application, Selection, and Notification Processes .....	5
<b>4 CSR 170-7.400</b> Missouri Housing Trust Fund Funding Process, Recapture of Undisbursed Missouri Housing Trust Fund Funds and Re-Awarding of Undisbursed Recapture Funds .....	5
<b>4 CSR 170-7.500</b> Compliance Requirements and Suspension and Recapture of Funds .....	6
<b>4 CSR 170-7.600</b> Procedures for Contesting Decisions by the Commission Regarding the Funding and Recapture of Missouri Housing Trust Fund Funds .....	8



**Title 4—DEPARTMENT OF  
ECONOMIC DEVELOPMENT**

**Division 170—Missouri Housing  
Development Commission**

**Chapter 7—Missouri Housing Trust Fund**

**4 CSR 170-7.010 Introduction**

(Rescinded June 30, 2012)

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011, effective June 30, 2012.*

**4 CSR 170-7.020 Definitions**

(Rescinded June 30, 2012)

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011, effective June 30, 2012.*

**4 CSR 170-7.030 Preparation of Application**

(Rescinded June 30, 2012)

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011, effective June 30, 2012.*

**4 CSR 170-7.040 Application and Notification Process**

(Rescinded June 30, 2012)

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011, effective June 30, 2012.*

**4 CSR 170-7.050 Compliance Requirements**

(Rescinded June 30, 2012)

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011, effective June 30, 2012.*

**4 CSR 170-7.100 Introduction**

*PURPOSE: This rule establishes guidelines to assist the Missouri Housing Development Commission in the implementation of the Missouri Housing Trust Fund and allows the commission to comply with the provisions of H.B. 1745 (1994) (affordable housing). This rule applies solely to the designated funds*

*received from the user fee established in section 59.319, RSMo, or other funds as determined by the commission.*

(1) Funds from the Missouri Housing Trust Fund (MHTF) shall be administered by the trust fund department. The trust fund manager shall supervise the day-to-day operations of the trust fund department. The trust fund manager shall report to the director or such other member of the Missouri Housing Development Commission's (commission) senior management as the director may deem appropriate.

(2) The trust fund department shall maintain the advisory committee to aid and enhance the overall mission of the MHTF by providing advice to the trust fund department regarding policies, procedures, and guidelines set by the trust fund department. The advisory committee shall be a public governmental body for purposes of Chapter 610, RSMo, and shall be bound to abide by that and all other applicable state laws.

(A) Meetings of the advisory committee—

1. The advisory committee shall meet on a quarterly basis with the dates of such meetings to be set by the trust fund manager and/or the director;

2. In order for a meeting to be valid, a quorum of the advisory committee must be present. The number of members constituting a quorum shall be as set forth in the advisory committee's by-laws, but in no event may a quorum be less than a majority of the members of the advisory committee; and

3. All meetings of the advisory committee shall be "public meetings," as such term is defined in Chapter 610, RSMo. Notices of all advisory committee meetings shall be provided in a manner consistent with Chapter 610, RSMo.

(B) The following individuals shall be required to attend all advisory committee meetings:

1. Members of the advisory committee;
2. The trust fund manager; and

3. All other members of the trust fund department whom the trust fund manager shall deem appropriate and/or necessary.

(C) Composition of the advisory committee—

1. The advisory committee shall be composed of twenty-five (25) members, consisting of the following:

A. Fifteen (15) of the members shall be representatives of agencies receiving MHTF funds from the commission for the funding year in which they are being appointed;

B. Four (4) of the members shall be representatives of agencies whose applications were not selected to receive MHTF funds from the commission for the funding year in which they are being appointed; and

C. Six (6) of the members shall be representatives from agencies at-large in the state (at least two (2) of which must come from the Missouri Metropolitan Continuum of Care);

2. At the end of each two- (2-) year term, one-third (1/3) of the representatives of the existing Advisory Committee shall be retained. Retention of representatives shall be handled in the same manner as appointment (as set forth in 4 CSR 170-7.100(2)(D)1. below), provided, however, that in no instance may the overall composition of the advisory committee deviate from the requirements set forth in 4 CSR 170-7.100(2)(C)1.; and

3. The advisory committee shall have such officers as may be established by the advisory committee by-laws. The advisory committee by-laws shall set forth the duties of each officer, as well as any rules regarding the officer positions, including, but not limited to, processes for electing and/or replacing officers, processes for removing officers from office, and rules on term limits.

(D) Appointment, resignation, and removal of advisory committee members—

1. Members of the advisory committee shall be appointed by joint decision of the director, the commission's director of operations, and the trust fund manager.

A. Appointments shall be made prior to the second advisory committee meeting every other calendar year.

B. Appointees shall serve terms of two (2) years and may not serve more than three (3) consecutive terms.

C. Members of the advisory committee shall not be reimbursed for their participation on the advisory committee;

2. Any member of the advisory committee may be removed upon an affirmative vote for removal by two-thirds (2/3) of the members of the entire advisory committee;

3. Any member of the advisory committee wishing to resign from the advisory committee shall submit a written resignation to the advisory committee chairman or the trust fund manager; and

4. Any member of the advisory committee who fails to attend any two (2) consecutive committee meetings during their term shall be ineligible for retention on or re-appointment to the advisory committee. Failure to attend any subcommittee meeting shall not be counted toward the two (2) absence rule.



(E) The advisory committee shall adopt by-laws governing its operation and shall keep a current copy of its by-laws on file with the trust fund manager. The by-laws may be amended, repealed, or modified by an affirmative vote of the majority of the advisory committee members at a regularly scheduled meeting, provided that any proposed changes are mailed to all advisory committee members at least two (2) weeks prior to the meeting where such vote is to be held. If any provision in the by-laws of the advisory committee conflicts with any rules established in these regulations or the state housing act, such provision in the by-laws shall be null and void.

(3) The commission staff shall, pursuant to the provisions of this chapter, provide application forms to housing provider organizations wishing to apply for, in whole or in part, grants or loans from the MHTF for the development of housing stock and/or to provide housing assistance to low income persons.

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000.\* Material in this rule was originally filed as 4 CSR 170-7.010. Original rule filed Nov. 30, 2011, effective June 30, 2012.*

*\*Original authority: 215.030, RSMo 1969, amended 1974, 1982, 1985, 1989, 1993, 1995, 1998.*

#### 4 CSR 170-7.200 Definitions

*PURPOSE: This rule defines terms used in the implementation of the Missouri Housing Trust Fund.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(1) As used in this chapter, all terms not otherwise defined herein shall have the meanings set forth in the state housing act and, as applicable, in 4 CSR 170-1.100. For purposes of this chapter, the following terms shall have the following meanings:

(A) Adjusted income. An amount equal to

adjusted income as such amount is defined under Title 24, *Code of Federal Regulations*, Part 5, published annually in April, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions;

(B) Advisory committee. The advisory committee shall be the committee established and maintained under 4 CSR 170-7.100(2);

(C) Affordable housing unit. A residential unit generally occupied by persons and families with incomes at or below the levels described in this rule and charging a gross rental rate no greater than the levels set forth in section 215.037.1., RSMo (as the same may be amended from time-to-time), reduced by the utility allowance, if applicable;

(D) Applicant(s). Shall refer to any entity applying for a grant or loan of Missouri Housing Trust Fund (MHTF) funds by submitting a proposal application form to the Missouri Housing Development Commission (commission);

(E) Application proposal guide. The application proposal guide adopted by the trust fund department from time-to-time pursuant to 4 CSR 170-7.300(3);

(F) Commissioners. The appointed and ex officio members of the commission or their lawfully authorized designees;

(G) Committee of directors. The committee of directors shall be a three (3) person committee comprised of the commission's director, director of rental production, and director of finance;

(H) Competent and substantial evidence. Evidence that is reliable and probative and which a reasonable mind could accept as adequate to support a conclusion (i.e., evidence upon which the party rendering a determination could reasonably base its decision);

(I) Compliance period. The compliance period set forth in the applicable land use restriction agreement or regulatory agreement recorded on the MHTF development pursuant to the requirements of this chapter;

(J) Eligible low income persons or families at or below fifty percent (50%) of median income, adjusted for family size. Persons or families whose household combined, adjusted income is equal to or less than the percentages set forth in section 215.036.2., RSMo (as the same may be amended from time-to-time);

(K) Eligible low income persons or families at or below twenty-five percent (25%) of

median income, adjusted for family size. Persons or families whose household combined, adjusted income is equal to or less than the percentages set forth in section 215.036.3., RSMo (as the same may be amended from time-to-time);

(L) MHTF development(s)/MHTF activity. Any development or activities eligible for assistance under section 215.038, RSMo (as the same may be amended from time-to-time);

(M) Housing provider organization. Any organization or firm performing housing development activities, community services, or economic activities in Missouri;

(N) Grantee(s). Any entity receiving a grant of MHTF funds under this chapter;

(O) MHTF. The Missouri Housing Trust Fund, as codified in sections 215.034–215.039, RSMo, (as may be amended from time-to-time);

(P) MHTF NOFA. A notice of funding availability (NOFA) for MHTF funds as approved from time-to-time by the commission pursuant to 4 CSR 170-7.300(2);

(Q) Missouri Metropolitan Continuum of Care. Collectively, the St. Louis City Continuum of Care (City of St. Louis, Missouri), St. Louis County Continuum of Care (St. Louis County), Kansas City Continuum of Care (Jackson County), St. Joseph Continuum of Care (Andrew County, DeKalb County, and Buchanan County), Joplin Continuum of Care (Jasper County and Newton County), Springfield Continuum of Care (Christian County, Green County, and Webster County) and St. Charles Continuum of Care (Lincoln County, Warren County, and St. Charles County);

(R) Proposal. A written application by one (1) or more housing provider organizations requesting MHTF funds for any MHTF development/MHTF activity in order to provide assistance to eligible persons or families in a manner consistent with the MHTF;

(S) Proposal application form. The application form adopted by the trust fund department from time-to-time pursuant to 4 CSR 170-7.300(1);

(T) Recaptured funds. All MHTF funds recaptured pursuant to 4 CSR 170-7.400(2);

(U) Trust fund manager. The individual hired by the director to manage and supervise the trust fund department;

(V) Trust fund department. The department established by the director to administer all MHTF funds awarded by the commission; and

(W) Utility allowance. The utility allowance for purposes of calculating gross rent under section 215.037.1., RSMo (as the same may be amended from time-to-time), shall be calculated using the method set forth under



Treas. Reg. Section 1.42-10(b)(4)(ii)(B) (T.D. 8520, 59 FR 10073, March 3, 1994, as amended by T.D. 9420, 73 FR 43867, July 29, 2008), herein incorporated by reference and made a part of this rule, as published by the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street NW, Suite 700, Washington, DC 20001, phone: (202) 741-6000, website: <http://www.archives.gov/federal-register/>. This rule does not incorporate any subsequent amendments or additions. If the local utility company is unable or unwilling to provide estimates necessary for calculating the utility allowance under such section, the method for calculating utility allowances set forth in Treas. Reg. Section 1.42-10(b)(4)(ii)(A) (T.D. 8520, 59 FR 10073, March 3, 1994, as amended by T.D. 9420, 73 FR 43867, July 29, 2008), herein incorporated by reference and made a part of this rule, as published by the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street NW, Suite 700, Washington, DC 20001, phone: (202) 741-6000, website: <http://www.archives.gov/federal-register/> shall be used. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000.\* Material in this rule originally filed as 4 CSR 170-7.020. Original rule filed Nov. 30, 2011, effective June 30, 2012.*

*\*Original authority: 215.030, RSMo 1969, amended 1974, 1982, 1985, 1989, 1993, 1995, 1998.*

#### **4 CSR 170-7.300 Proposal Application, Selection, and Notification Processes**

*PURPOSE: This rule establishes the procedures for submitting proposals, identifies requirements for filing a proposal for Missouri Housing Trust Fund funds, and establishes criteria and priorities for the approval or disapproval of such proposals.*

(1) The trust fund department shall, from time-to-time, adopt a proposal application form to be used by all agencies requesting Missouri Housing Trust Fund (MHTF) funds. Any proposal application form so adopted shall meet the following requirements:

(A) The form adopted shall first require the approval of the trust fund manager and the director; and

(B) The form adopted must provide all information necessary to allow the commission to select proposals based on the require-

ments and criteria the commission may adopt in the allocation plan and notice of funding availability (NOFA) adopted pursuant to 4 CSR 170-7.300(2).

(2) The commission shall, from time-to-time, adopt an allocation plan and MHTF NOFA for the MHTF. After approving drafts of the allocation plan and MHTF NOFA, the commission shall hold public hearings on the same. Once public hearings have been completed, and all comments have been considered, the commission will finalize and approve the allocation plan and MHTF NOFA.

(3) Within thirty (30) days after the commission adopts an allocation plan and MHTF NOFA, the trust fund department will issue an application proposal guide which shall, at a minimum, detail the requirements for the proposal application form, the criteria to be used by the commission in selecting proposals, and a timeline for the proposal review and selection process including all pertinent deadlines related to the application process.

(4) Review and approval of proposals submitted under the MHTF NOFA.

(A) Each proposal application form submitted under the MHTF NOFA shall first be independently reviewed and scored by two (2) separate staff members of the trust fund department selected by the trust fund manager. The two (2) staff members evaluating and scoring the proposals shall evaluate such proposals using the criteria established by the commission in the allocation plan and MHTF NOFA, as well as the criteria set forth in the application proposal guide. Once each staff member has completed independently reviewing and scoring each proposal, the proposals and preliminary scores shall be provided to the trust fund manager for final review. The trust fund manager shall review each proposal and the preliminary scores tabulated by each of the two (2) staff members for completeness and accuracy. In performing this final review, the trust fund manager shall have the ability and discretion to correct errors in preliminary scores, reconcile discrepancies in the preliminary scores and otherwise adjust the results of the preliminary scores in order to ensure that the final score attributed to each proposal fully and accurately reflects its content. Once final scores are assigned to each proposal, the trust fund department will prepare recommendations for funding based on score and the allocation plan, and such recommendations will be presented to the commission, at a time estab-

lished by the commission, for approval of selected proposals.

1. If any proposal involves an owner who is not in good standing with the commission under any other program administered by the commission, the proposal shall be subject to such penalties as may be set forth in the application proposal guide.

2. No proposal application form submitted after the deadline will be considered for funding.

3. If any proposal involves an owner, sponsor, or partner who is involved in any other property funded in whole or in part by MHTF funds and such property is in a current state of non-compliance with MHTF guidelines based on a determination made pursuant to 4 CSR 170-7.500, the proposal shall be subject to such penalties as may be set forth in the application proposal guide.

4. If, as of the application deadline, any proposal application form submitted to the commission is incomplete, the application shall be considered, but shall be subject to such penalties as may be set forth in the application proposal guide.

(B) The commission may approve or disapprove any proposals submitted and/or recommended by the trust fund department at its discretion, and all decisions of the commission regarding the disposition of a proposal shall be final.

(C) All applicants shall be notified of the commission's disposition of their proposal by mail or such other means as the commission may deem appropriate provided that the method of notification used is reasonably likely to apprise all applicants as to the disposition of their applications. Successful applicants will receive a written reservation from the commission which shall set forth the covenants, terms, and conditions upon which MHTF funds are being awarded.

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000.\* Material in this rule originally filed as 4 CSR 170-7.030 and 4 CSR 170-7.040. Original rule filed Nov. 30, 2011, effective June 30, 2012.*

*\*Original authority: 215.030, RSMo 1969, amended 1974, 1982, 1985, 1989, 1993, 1995, 1998.*

#### **4 CSR 170-7.400 Missouri Housing Trust Fund Funding Process, Recapture of Undisbursed Missouri Housing Trust Fund Funds and Re-Awarding of Undisbursed Recaptured Funds**

*PURPOSE: This rule establishes processes recipients of Missouri Housing Trust Fund*



(MHTF) awards must abide by in order to receive and retain MHTF funds.

(1) Each applicant whose proposal has been selected for funding and who has entered into a reservation agreement for Missouri Housing Trust Fund (MHTF) funds under 4 CSR 170-7.300 must execute a grant agreement, and, where applicable, a land use restriction agreement and/or regulatory agreement with the commission, each on such forms as may be prescribed by the commission, before any MHTF funds may be advanced to the applicant.

(2) All grant funds awarded under the MHTF notice of funding availability (NOFA) must be disbursed by such date as the trust fund department may specify in each individual grant agreement. Any funds remaining undisbursed after that date shall be recaptured by the commission.

(3) All recaptured funds shall be made available to grantees whose proposals were selected for funding under the same MHTF NOFA for which the MHTF funds are being recaptured, but which did not receive the full amount of MHTF funds requested, via a secondary funding round. The allocation of recaptured funds under this secondary funding round shall be determined by the trust fund department, in its sole discretion, taking into account all factors it deems appropriate. These factors will include, but shall not be limited to, the following:

(A) The final score on the grantee's original proposal;

(B) The type of eligible funding use(s) for which the MHTF funds were requested under the grantee's original proposal;

(C) The total amount of MHTF funds allocated to each type of eligible funding use under the MHTF NOFA for which the recaptured funds are being made available;

(D) The allocation plan approved by the commission for the MHTF NOFA under which the recaptured funds are being distributed;

(E) The grantee's continuing need for the remaining MHTF funds sought under its original proposal;

(F) The grantee's performance and history of compliance under its current grant agreement(s) with the trust fund department; and

(G) The grantee's standing with all other departments and programs of the commission with which it is involved.

(4) In no event shall the total amount of recaptured funds allocated to any grantee, when combined with the total amount of

MHTF funds initially awarded to the grantee under its original proposal, exceed the total amount of MHTF funds requested under the grantee's original proposal.

(5) All recaptured funds awarded under this section shall be disbursed in accordance with such rules and requirements as the commission and its staff may establish.

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000.\* Original rule filed Nov. 30, 2011, effective June 30, 2012.*

*\*Original authority: 215.030, RSMo 1969, amended 1974, 1982, 1985, 1989, 1993, 1995, 1998.*

#### 4 CSR 170-7.500 Compliance Requirements and Suspension and Recapture of Funds

*PURPOSE: This rule establishes the compliance requirements for the Missouri Housing Trust Fund (MHTF) and grounds upon which disbursement of MHTF grant funds may be suspended and when MHTF funds may be recaptured from a grantee.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(1) For any grantee receiving Missouri Housing Trust Fund (MHTF) funds for an eligible use set forth in sections 215.038(6)–(11), RSMo (as the same may be amended from time-to-time), prior to receiving any disbursements under a grant agreement for such funds, the grantee shall be required to execute and record a land use restriction agreement binding the use and transfer of the property for a period of eighteen (18) years following the final disbursement of MHTF funds under the grant agreement, or such longer period as the commission may require. The land use restriction agreement shall be in such form as the commission may prescribe.

(2) Any grantee receiving MHTF funds for the payment of rental subsidies as provided for under sections 215.038 (2)–(3), RSMo

(as the same may be amended from time-to-time), shall, where such subsidies are awarded to a specific MHTF development owned by the grantee and not to a grantee that is an independent agency providing rental subsidies to qualified applicants, record a land use restriction agreement binding the use and transfer of the property for the duration of the grant agreement. The land use restriction agreement shall be in such form as the commission may prescribe.

(3) For any property benefiting from mortgage assistance payments provided for under sections 215.038(12) or 215.038(14), RSMo (as the same may be amended from time-to-time), if such assistance payments are made for six (6) or more consecutive months, the grantee receiving such assistance or providing assistance to an eligible person shall record a land use restriction agreement binding the use and transfer of the property for the greater of one (1) year or the time period for which such assistance payments are received.

(4) Any individual receiving MHTF funds to finance repairs to their residence as provided for under section 215.038(15), RSMo (as the same may be amended from time-to-time) (which grants shall not exceed the limits set forth in the application proposal guide), shall, prior to the disbursement of any grant funds, be required to record a regulatory agreement in such form as the commission may prescribe, which shall restrict the use and transfer of the property for the period(s) set forth in the applicable application proposal guide.

(5) Maintaining Adequate Housing Conditions for Tenants.

(A) All grantees are encouraged to provide housing of a similar quality and similar in amenities to market rate housing in the same area where the MHTF development is located.

(B) At a minimum, the MHTF development shall comply with the housing quality standards established by Title 24, *Code of Federal Regulations*, Part 982, published annually in April, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

(C) All MHTF developments must meet local building codes, ordinances, zoning



laws, and federal regulations that may be applicable.

(D) If the commission or any of its agents receives any report that a grantee is placing tenants or clients in physical danger due to substandard living conditions, the commission staff shall perform an immediate site visit to inspect the conditions identified in the complaint. If the complaints are confirmed, the commission and its staff shall take appropriate actions necessary up to and including recapture of MHTF fund and/or suspension or debarment of the grantee pursuant to 4 CSR 170-8.

(6) All aspects of each MHTF development must comply with any and all applicable federal, state, and/or local regulations and laws, including any such regulations or laws regarding accessibility of affordable housing units for disabled persons, and existence or storage of hazardous materials on the property where the MHTF development is located.

(7) All rental MHTF developments must comply with all applicable federal, state, and local laws prohibiting discrimination in housing on the grounds of race, color, creed, age, sex, handicap, familial status, or national origin.

(8) Procedures for Monitoring the Compliance of MHTF Developments and/or Agencies Receiving MHTF Funds.

(A) For every year during the compliance period indicated in the land use restriction agreement, any grantee supplying affordable housing units receiving MHTF funding shall certify to the commission and its staff that all tenants of the MHTF development, or all clients receiving rental assistance, as the case may be, are income eligible under the terms of the state housing act and these regulations.

(B) In order to ensure that each recipient of MHTF funds complies with the terms of its grant agreement, the state housing act, and these regulations, and that the certifications required under the preceding paragraph are true and accurate, the commission staff shall regularly monitor compliance of grantees using such policies and procedures as the commission and its staff may deem necessary, including, but not limited to:

1. Performing announced and/or unannounced site visits to audit the grantee's tenant/client files in order to verify the income qualification of the grantee's tenants, as well as to ensure that the MHTF development is being maintained in accordance with the rules and requirements set forth by the MHTF grant agreement, the state housing act, and/or these regulations;

2. Performing announced and/or unannounced site visits to audit tenant/client files of the grantee in order to verify the income qualification of the clients being served by the agencies, as well as to ensure that the agency is generally maintaining compliance with the rules and requirements set forth by the MHTF grant agreement, the state housing act, and/or these regulations; and

3. Performing announced and/or unannounced site visits to construction sites for MHTF developments receiving MHTF funds in order to ensure that the MHTF development is being constructed in accordance with the plans and specifications approved by the commission staff and to ensure that all work for which disbursements have been made has been satisfactorily performed.

(C) If a commission staff member performing a review of tenant/client files during any site visit determines that some of the files reviewed lack the documentation required by the commission to evidence tenant/client eligibility, the staff member performing the review and/or the commission and its staff, as the case may be, shall take the following actions:

1. Recourse for findings of minor non-compliance.

A. If one (1) or more, but less than one-half (1/2) of the files reviewed are deemed non-compliant, this shall be deemed an event of minor non-compliance.

B. In the event there is a finding of minor non-compliance, the commission staff shall inform the grantee of the findings and shall document the same in the grantee's file maintained by the trust fund department.

C. The first time such non-compliance is documented, the grantee shall receive a warning. For each subsequent finding of non-compliance, the trust fund department may take any such action against the grantee that it deems appropriate in its sole discretion. Such actions may include, but are not limited to, suspension of the grantee's funding pursuant to 4 CSR 170-7.500(3)(C) and/or recapture of all or a part of the MHTF funds disbursed to the grantee under its proposal(s) pursuant to the procedures set forth in 4 CSR 170-7.500(11);

2. Recourse for findings of major non-compliance.

A. If one-half (1/2) or more of the files reviewed are deemed non-compliant, this shall be deemed an event of major non-compliance.

B. In the event there is a finding of major non-compliance, the commission staff shall inform the grantee of the findings and shall document the same in the grantee's file maintained by the trust fund department.

C. In addition to the grantee's non-compliance being documented in its file maintained by the trust fund department, the trust fund department may take any such action against the grantee that it deems appropriate in its sole discretion. Such actions may include, but are not limited to, suspension of the grantee's funding pursuant to 4 CSR 170-7.500(3)(C) and/or recapture of all or a part of the MHTF funds disbursed to the grantee under its proposal(s) pursuant to the procedures set forth in 4 CSR 170-7.500(11);

3. If the trust fund department suspends a grantee's funding due to non-compliance violations under 4 CSR 170-7.500(3)(C), such grantee shall not be entitled to any further advances under its grant agreement until the grantee has completed all requirements established by the commission staff to have its funding reinstated. If a grantee has its funding suspended three (3) times pursuant to the provisions contained in 4 CSR 170-7.500(3)(C), then upon the third event of non-compliance necessitating a suspension of funds, the grantee's funding shall be terminated and the grant funds recaptured. The trust fund department shall determine whether the recapture of funds will apply only to those grant funds not yet expended, or whether such recapture shall apply to all funds awarded under the initial grant agreement;

4. Any grantee found out of compliance will be placed on a compliance list that will be monitored and reviewed by the trust fund department until such time as the trust fund department determines the grantee has sufficiently remedied any issues of non-compliance such that it should be removed from the list. As long as a grantee remains on the compliance list, its presence on the list will be noted in, and have a potentially adverse impact on, any subsequent proposals it submits to the trust fund department; and

5. If the trust fund department, in its sole discretion, determines that a grantee's compliance failures are of such a significant nature that they merit the involvement of and/or action from the commissioners, the trust fund department may report the grantee's compliance issues to the commissioners at the next scheduled meeting of the commission, or such earlier time as the trust fund department may deem appropriate. The commissioners may direct the trust fund department to take any such action against the non-compliant grantee as they may deem appropriate.

(D) If a commission staff member performing an inspection of a construction site determines that any work performed is of unacceptable quality, disbursements of grant



funds will be suspended until the work is remediated to a level acceptable to the commission staff. If the grantee fails to remediate the issue within thirty (30) days of the date notice is provided to the grantee of the unacceptable condition, or within such longer time period as the commission staff may allow, all unexpended grant funds shall be subject to recapture.

(E) If the grantee fails to comply with the availability requirements for scheduling of site visits, which requirements shall be set by the commission staff from time-to-time and shall be stated in the grant agreement, any grant funds awarded under the grant agreement shall be subject to recapture by the commission.

(9) If at any time during the compliance period the commission staff determines an MHTF development or MHTF activity is not in compliance with the applicable provisions of the grant agreement, land use restriction agreement, state housing act, or these regulations, the commission staff may revoke the assistance provided and recapture all undisbursed grant funds. In addition, the commission staff may, where deemed to be in the best interest of the state, recapture all or a portion of the MHTF funds already disbursed under the grant agreement.

(10) If a grantee providing home repair grants to individuals pursuant to a grant agreement for MHTF funds between the grantee and the commission becomes aware at any time during the compliance period of a regulatory agreement associated with a home repair grant that the home owner is out of compliance with the terms of said regulatory agreement, the agency must immediately notify the trust fund department of the non-compliance issue. In the event of such non-compliance by the home owner, the commission shall have the right to require the home owner to return a pro-rated portion of the home repair funds granted pursuant to the terms of the regulatory agreement governing the use and sale of the home. If the grantee fails to notify the trust fund department of the non-compliance issue within a reasonable amount of time after the non-compliance comes to the attention of the grantee, in addition to any remedies which may be provided to the commission against the grantee in the grant agreement executed between the parties, the commission may hold the grantee liable to the commission for the amount of funds the commission would have been entitled to recapture under the regulatory agreement (provided the commission is no longer able to recapture such funds from the home owner itself). The

commission may, in its sole discretion, when it finds extenuating circumstances for which the otherwise due and payable pro-rated portion of the funds used for home repair should be forgiven for an individual home owner, waive its right to recapture of a pro-rated portion of the home repair grant funds from the homeowner.

(11) Process for the Recapture of MHTF Funds.

(A) Before any recapture of MHTF funds is ordered, the trust fund manager must document the cause for which the recapture is recommended by completing and signing a recaptured funds form in the form prescribed by the trust fund department, as the same may be amended from time-to-time, and attaching any supporting documentation.

(B) The trust fund department shall then provide information regarding disbursements made and the amount of funds remaining available for disbursement to the grantee.

(C) The trust fund manager shall then mail a notice to the grantee by certified mail, return receipt requested, notifying the grantee of the commission staff's decision to recapture MHTF funds under the grant agreement. Such notice shall contain the following information:

1. Notice of the commission staff's decision to recapture funds under the grantee's grant agreement;

2. A brief explanation of the grounds upon which such recapture of MHTF funds is based; and

3. Notice of the grantee's rights to contest the commission staff's decision pursuant to the procedures set forth in 4 CSR 170-7.600, as well as notice of the time frame within which such rights must be exercised.

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000.\* Original rule filed Nov. 30, 2011, effective June 30, 2012.*

*\*Original authority: 215.030, RSMo 1969, amended 1974, 1982, 1985, 1989, 1993, 1995, 1998.*

#### **4 CSR 170-7.600 Procedures for Contesting Decisions by the Commission Regarding the Funding and Recapture of Missouri Housing Trust Fund Funds**

*PURPOSE: This rule provides the proper procedures to be used by a grantee in order to dispute any decision made by the commission staff to recapture Missouri Housing Trust Fund funds previously awarded to a grantee.*

(1) All disputes regarding the recapture of

Missouri Housing Trust Fund (MHTF) funds shall be handled as informally as practicable, consistent with the fundamental principles of fairness, using the following procedures:

(A) In the event the commission staff orders a recapture of MHTF funds pursuant to 4 CSR 170-7.500(9), the grantee shall have thirty (30) days from the date on which notice is delivered to it to exercise its rights under this subsection by sending notice to the trust fund manager indicating its intent to dispute the recapture of funds and requesting a hearing with the commission's director of operations;

(B) If the grantee fails to contest the commission staff's decision within thirty (30) days from the date upon which it receives notice of the commission staff's intent to recapture, the opportunity of the grantee to exercise the rights provided for in this section shall be deemed waived and the decision of the commission staff to recapture MHTF funds from the grantee shall be deemed final;

(C) If the grantee provides a timely response to the notice and exercises its right to a hearing with the director of operations, the director of operations shall hold a hearing with the grantee within thirty (30) days of the date on which the request for a hearing is received by the trust fund manager. The deadline for conducting a hearing may be extended for one (1) additional thirty (30) day period upon written request of either the director of operations or the grantee requesting the hearing, provided that notice of the request for extension must be provided to all parties;

(D) The following guidelines shall apply to the hearing held by the director of operations:

1. The hearing shall not be considered a contested case;

2. The hearing shall be informal and no formal rules of evidence or procedure shall apply;

3. The commission may have its counsel present at the hearing;

4. The grantee may be represented by counsel at the hearing and shall have the right to present evidence or arguments relevant to the grounds upon which the recapture action is based. If the grantee elects to be represented by counsel at the hearing, it shall notify the director of operations of this intent at least five (5) days prior to the scheduled hearing; and

5. The director of operations, in reaching his/her decision may consider information from any source which is relevant to the recapture of grant funds and shall consider all facts and circumstances upon which the proposed recapture of funds is based;

(E) Within thirty (30) days of the date on which the hearing is held, the director of



operations shall issue a decision in writing to the grantee, which decision shall be mailed to the grantee by certified mail, return receipt requested.

1. If the director of operations determines that recapture of MHTF funds is not warranted, the decision shall notify the grantee that its MHTF funds will not be recaptured on the grounds for which the hearing was held.

2. If the director of operations determines that recapture of MHTF funds is warranted, it shall notify the grantee of the grounds upon which such decision was reached. It shall further notify the grantee of its right to appeal the decision to the committee of directors pursuant to subsection 4 CSR 170.7-600(1)(G), as well as the time within which such request for a hearing with the committee of directors must be provided to the director of operations. The time for the filing of such request shall be thirty (30) days from the date on which the decision of the director of operations is received by the grantee;

(F) If the grantee fails to contest the director of operations' decision within thirty (30) days from the date upon which it receives notice of such decision, the grantee's right to appeal the decision shall be deemed waived and the decision of the director of operations shall be deemed final;

(G) If the grantee provides a timely response to the notice and exercises its right to appeal the decision of the director of operations, the committee of directors shall hold a hearing with the grantee within thirty (30) days of the date on which the request for a hearing is received by the director of operations. The deadline for conducting a hearing may be extended for one (1) additional thirty (30) day period upon written request of either the committee of directors or the grantee requesting the hearing, provided that notice of the request for extension must be provided to all parties;

(H) The following guidelines shall apply to the hearing held by the committee of directors:

1. The hearing shall not be considered a contested case;

2. The hearing shall be informal and no formal rules of evidence or procedure shall apply;

3. The commission may have its counsel present at the hearing;

4. The grantee may be represented by counsel at the hearing and shall have the right to present evidence or arguments relevant to the grounds upon which the recapture action is based. If the grantee elects to be represented by counsel at the hearing, it shall notify the committee of directors of this intent at

least five (5) days prior to the scheduled hearing; and

5. The committee of directors, in reaching its decision may only consider items in the record of the hearing held by the director of operations. However, the committee of directors may also consider evidence that was not available at the initial hearing, but only if the party offering the additional evidence can show good cause for why it was not presented at the initial hearing. The committee of directors shall uphold the director of operations' decision unless it determines that the director of operations' decision was not based on competent and substantial evidence. If the committee of directors determines that the decision of the director of operations was not based on competent and substantial evidence, it may either—

A. Overrule the decision of the director of operations and reinstate such amounts of the grantee's funding under its grant agreement as the committee of directors may deem appropriate; or

B. Remand the matter back to the director of operations if it determines that further investigation and fact gathering is necessary before a final conclusion may be reached. If the matter is remanded back to the director of operations, after the necessary additional investigation and/or fact gathering is completed, the director of operations will issue its determination, which shall be subject to appeal using the same procedures as set forth in subsections 4 CSR 170-7.600(1)(E)–(H); and

(I) Within thirty (30) days of the date upon which the appeal hearing is held, the committee of directors shall issue a decision in writing to the grantee, which shall be mailed by certified mail, return receipt requested. This decision shall be considered the final decision of the commission on the matter. However, this decision of the committee of directors shall not be considered final if it finds appropriate grounds to remand the matter back to the director of operations pursuant to subparagraph 4 CSR 170-7.600(1)(H)5.B. If the matter is remanded back to the director of operations, the same procedures spelled out in subsections 4 CSR 170-7.600(1)(C)–(I) shall apply for all further proceedings with the director of operations and/or the committee of directors until a final decision is reached.

*AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000.\* Original rule filed Nov. 30, 2011, effective June 30, 2012.*

*\*Original authority: 215.030, RSMo 1969, amended 1974, 1982, 1985, 1989, 1993, 1995, 1998.*