

No.: 97-69

Date: November 12, 1997

FEDERAL HOUSING FINANCE BOARD

Pilot Mortgage Program Proposed by Federal Home Loan Bank of Seattle

WHEREAS, in accordance with 12 C.F.R. § 934.1 and Section II.B.12. of the Financial Management Policy (FMP), the Federal Home Loan Bank of Seattle (FHLBank-Seattle) has requested Federal Housing Finance Board (Finance Board) approval of a pilot program under which the FHLBank-Seattle would purchase up to \$25 million in Federal Housing Administration (FHA) insured residential mortgage loans (Pilot); and

WHEREAS, the objective of the Pilot is to afford FHLBank-Seattle members and nonmember mortgagees a means to finance rent-to-own programs for low-and moderate-income households, which members have identified as an unmet mortgage credit need; and

WHEREAS, the FHLBank-Seattle would purchase these mortgage loans only from its members and approved nonmember mortgagees, which would originate the loans to HUD-eligible public and private nonprofit organizations, such as affordable housing developers and local government agencies; and

WHEREAS, a number of members and nonmember mortgagees of the FHLBank-Seattle have expressed a willingness to participate in the Pilot as originators of such loans; and

WHEREAS, notice of the proposed Pilot was published in the Federal Register on August 8, 1997, affording any interested party an opportunity to comment on the terms of the Pilot prior to Finance Board consideration of the merits of the Pilot; and

WHEREAS, the Finance Board received 12 comment letters in response to the published notice and no commenter identified any enterprise operating within the FHLBank-Seattle district that is engaged in purchasing such FHA-insured mortgage loans with which the FHLBank-Seattle might be perceived to compete; and

WHEREAS, Sections 11 (h) and 16(a) of the Federal Home Loan Bank Act authorize a FHLBank to invest surplus and reserve funds in "such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located" and the term "securities" represents a broad class of financial investments in which fiduciaries may invest under state law, including residential mortgage loans; and

WHEREAS, the FHLBank-Seattle has obtained an opinion of local counsel to the effect that the FHLBank-Seattle's purchase of the mortgage loans of the type described in the Pilot would meet

the legal standard for the investment for fiduciary and trust funds under the laws of Washington State; and

WHEREAS, the Office of General Counsel has reviewed the Pilot and has determined that the FHLBank-Seattle has the authority under Sections 11(h) and 16(a) to invest and hold the mortgage loans described in the Pilot. Memorandum from Deborah F. Silberman, Acting General Counsel, to Bruce A. Morrison, Chairman (October 22, 1997); and

WHEREAS, Section 934.1 of the Finance Board regulations permits a Bank to invest in securities with the prior approval of the Finance Board or in conformity with stated Board policy, and the Finance Board has established guidelines through the FMP for its consideration of investments that support housing and community development; and

WHEREAS, in considering whether a proposed investment to support housing and community development comports with the FMP, the Finance Board must evaluate the proposal in light of the criteria set forth in Section II.B.12. of the FMP, which are: adequacy of the risk management procedures, the degree to which a proposal addresses unmet housing finance needs, and the degree to which a proposal would promote the cooperative nature of the Bank System; and

WHEREAS, the Office of Policy has evaluated the Pilot in light of the criteria established by the FMP and has determined that approval of the Pilot would be consistent with the FMP criteria. Office of Policy Memorandum to the Board of Directors (October 22, 1997); and

WHEREAS, the board of directors of the Finance Board has considered, among other things, the application materials submitted by the FHLBank-Seattle, the public comments, the OGC Legal Memorandum dated October 22, 1997, the Office of Policy Memorandum dated October 22, 1997, all of which are incorporated into the record of this action; and

WHEREAS, the Finance Board has determined that the implementation of the Pilot would be consistent with the FMP criteria, in that the Pilot: (1) includes provisions, including FHA insurance, sufficient to manage the risks to the FHLBank-Seattle and to the Bank System; (2) advances housing finance by facilitating the funding of lease-to-own programs that would provide mortgage financing to segments of the population not served by other mortgage market participants; and (3) promotes the cooperative nature of the Bank System by allowing members to participate in lease-to-own programs that otherwise would not be economically feasible, and does not compete with its members regarding the purchase of such loans; and

WHEREAS, the Finance Board has determined that the FHLBank-Seattle has the authority pursuant to 12 U.S.C. § 1431(h) and § 1436(a) to invest in residential mortgage loans as proposed in the Pilot, provided that on the date of any such investment residential mortgage loans are lawful investments for fiduciary and trust funds under the law of Washington State;

NOW THEREFORE BE IT RESOLVED THAT, the Finance: Board hereby approves the application of the FHLBank-Seattle to purchase and hold, in an amount that at no time shall exceed \$25 million, FHA-insured residential mortgage loans originated by its members and nonmember mortgagees to affordable housing developers and local government agencies as

described in the Pilot; provided, however, (1) that implementation of the program is conditioned upon completion of a pre-implementation examination and written confirmation by the Finance Board's Office of Supervision that the FHLBank-Seattle has established policies, procedures and controls to manage the risks associated with the program; (2) receipt of a written opinion from local counsel to the FHLBank-Seattle that the opinion expressed in its April 11, 1996, opinion regarding the authority of a fiduciary to invest in residential mortgage loans under the laws of Washington State remains valid as of the date on which the Pilot is implemented.

By The Board of Directors of the
Federal Housing Finance Board

A handwritten signature in black ink, appearing to read "B. A. Morrison". The signature is written in a cursive, somewhat stylized font.

Bruce A. Morrison, Chairman