

MIDDLE INCOME – LEGAL TOOLS

Property Tax Exemptions
HUD 221(d)(4) Underwriting Guidelines
Tax Exempt Bond Structures
Naturally Occurring Affordable Housing Equity Funds

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- Colorado Revised Statute Section 29-4-227
 - Deference granted to housing authorities in defining what “projects” they support
 - Statute does not define “persons of low income” nor apply definitions from federal or state programs
 - Key statutory language at 29-4-203(12):
 - “the term ‘project’ also applies to the provision of dwelling accommodations to persons, without regard to income, as long as the project substantially benefits persons of low income *as determined by an authority*” (emphasis added)

DISCRETION APPLIES TO A HOUSING AUTHORITY'S DETERMINATION OF:

1. whether a project benefits persons of low income; and
2. what percentage of the project qualifies for the exemption which determination “is presumed valid absent manifest error”.

HUD MORTGAGEE LETTER 2026-1


 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 FEDERAL HOUSING ADMINISTRATION

DATE: January 22, 2026
 MORTGAGEE LETTER 2026-1

TO: All FHA-Approved Multifamily Mortgagees
 SUBJECT: Creating a Middle Income Housing option for 221(d)(4)

I. Purpose
 This Mortgagee Letter (ML) provides updated underwriting standards and thresholds for Middle Income Housing as part of the Federal Housing Administration's (FHA's) Office of Multifamily Housing loan programs and fully supersedes previously issued ML 2025-2. The Middle Income Housing initiative is not applicable to the health care programs administered by the Office of Healthcare Program (Section 232 or refinancing of Section 232 pursuant to Section 223(f) or 223 (d)(7)), nor does it apply to Section 229, Section 231 and Risk Share (Section 242) loans. The Middle Income Housing initiative addresses current real estate and financing markets and is intended to stimulate housing production as part of FHA's countercyclical role, while ensuring the continued availability and stability of the FHA insurance fund.

II. Background
 Many households with incomes above levels typically targeted and defined as affordable (i.e., LHFC, Section 8, etc.) lack access to rental housing affordable to them. Defining a Middle Income Housing segment can help owners, investors, lenders, state and local governments, and other stakeholders target rental housing activities to the segment. Unfortunately, there is no widely accepted or clear definition of Middle Income Housing across the industry. Various industry reports, trade organizations and governmental bodies each define Middle Income Housing differently, usually as housing that is affordable to individuals and families earning from 60% to 120% of Area Median Income (AMI). However, in some high-cost communities, households with incomes as high as 150% of AMI struggle to find rental housing they can afford.

As part of HUD's commitment to create additional housing, both affordable and market rate, FHA is introducing specific policy changes to support construction of Middle Income Housing utilizing the

Middle Income Housing (50% of Units Targeted for Tenant Income Levels Up To 120% AMI)	Criteria 3 (Loan to Value/Loan to Cost)		Criteria 5 (Debt Service Coverage)		Vacancy Factor
	Market Rate LTC ¹	Middle Income LTC	Market Rate DSCR ¹	Middle Income DSCR	
Loan Program					
221(d)(4) NC/SR	87%	90%	1.15	1.11	7%

501(C)(3) BONDS

Issued by or for a 501(c)(3) organization

Project provides a public benefit

Allows for lower interest rates than conventional loans

Need to define the charitable purpose

Diminishes the reliance of public funding sources

Form of use restriction may present a divergence from the parameters applicable to LIHTC extended use agreements with which bond issuer is more familiar

NOAH EQUITY FUNDS

Flip the Wall Street model on its head

Funds driven by charitable organizations ability to attract philanthropic donors

Or building funds seeking stable returns –
institutional investors
family offices/high net worth individuals

Voluntary Rent Restrictions – ability to govern how units are deployed and long-term use requirements