

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
October 28, 2016  
Action Items



## LEGAL

### *Action*

#### I. LEGAL

##### A. Orders of Ineligibility

###### 1. Background

- a) The Low Income Housing Tax Credit Program was established as part of the Tax Reform Act of 1986 and is a critical tool for developing affordable housing in Florida and across the country. The restricted rents associated with affordable housing units do not provide the level of income to support the development's operations over time. Tax credits are a way to lower the typical amount of debt found in a market rate apartment complex. The credits provide equity, making up the difference in what it costs to deliver affordable housing and the income that can be generated to support a development's costs. As a means to procure private sector equity, tax credits represent a genuine public-private partnership.
- b) The Internal Revenue Service (IRS) annually establishes a population-based ceiling for each state's maximum tax credit allocation, which is awarded to developers through a competitive process. Florida's estimated allocation for 2016 is slightly over \$46 million and will provide a benefit in that amount for each year over a 10-year period (i.e., totaling just over \$460 million in credits over the 10 years). The credits represent a dollar for dollar tax reduction of federal tax liability in exchange for financing to develop affordable housing. Additional tax credits can be used in conjunction with mortgage revenue bonds and are not included in a state's annual tax credit allocation from the IRS. Combined, these tax credits finance the construction or rehabilitation of roughly five thousand units of affordable housing each year in Florida.
- c) Although the tax credit program is overseen by the IRS, each state issues its own Qualified Allocation Plan which governs the competitive allocation process. As in Florida, most states utilize their state Housing Finance Agency to administer the program. Compliance and auditing are central to Florida's allocation process as tax credits are not actually earned until a development is complete and operating. Developers must complete construction and have the development open for occupancy within two years of receiving a tax credit allocation. Owners (including associated private investors) not compliant with program requirements are subject to tax credit recapture (including associated penalties and interest charges) for 15 years.
- d) While variations in construction cost reporting exist, the federal program parameters of tax credits have resulted in substantially similar processes from state to state. An application for tax credits in Florida must include the proposed development's estimated construction costs. If a development is granted a tax credit award by Florida Housing's Board of Directors, the applicant is then invited into credit underwriting. At this stage, the provisional 'awardee' must submit a construction contract for the development and receives a third party credit underwriting review of the proposed development, including a review of the design plan and construction costs. When the development is completed, the applicant submits a final certification of development costs to Florida Housing.

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- e) Since the inception of the tax credit program, Florida Housing --- like all other state housing finance agencies --- has required a final cost certification. This cost certification must be prepared by an independent Certified Public Accountant (CPA) in order for the applicant to actually receive the tax credits. The cost certification establishes the total actual costs incurred by the awardee in the delivery of an affordable housing development capitalized through tax credits. Construction costs cited in an applicant's initial pro forma and at credit underwriting are ostensibly best estimates; the cost certification is designed to capture documented actual construction costs.
- f) Through 2013, the cost certification process utilized by Florida Housing followed the current national "best practices" model (which can be found on the website of the National Council of State Housing Agencies).
- g) In April 2014, Florida Housing began rule development which resulted in a further strengthened cost certification process. The final rule was approved by Florida Housing's Board of Directors in September 2014.
- h) A key enhancement resulting from the rule development was requiring a separate, rigorous general contractor cost certification in addition to the applicant cost certification. The construction costs associated with a minimum of eight subcontractors, or those associated with at least 40 percent of the construction costs of the development (whichever is greater) must be audited by an independent CPA.
- i) With the adoption of this enhanced accountability measure, Florida Housing now requires a considerably more demanding and comprehensive tax credit development cost certification process. Florida Housing is also developing increased data collection and analysis metrics around submitted credit underwriting reports and cost certifications to provide improved oversight of the allocation and cost containment processes.
- j) Carlisle Development Group (CDG) applied for federal tax credits and federal grant funds to build low-income housing developments through the Corporation's low income tax credit program. As a part of this process, CDG submitted documentation of estimated development costs, including copies of construction contracts signed by the developer and general contractor. In late 2012, Federal investigators contacted the Corporation regarding potential fraud regarding the pricing of these contracts in 14 Corporation-funded developments. Since that time, the Corporation has assisted with and participated in the investigation and prosecution of those involved.
- k) The following individuals were charged criminally and have pled guilty to various Federal crimes for their participation in these and other fraudulent schemes to steal funds intended for the construction of low-incomes housing. These individuals are:

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- Lloyd Boggio, 70 of Coconut Grove, a former CEO of CDG and former low-income housing developer in Miami;
  - Matthew Greer, 38 of Miami Beach, a former CEO of CDG, a former low-income housing developer in Miami;
  - Michael Runyan, 67 of Lighthouse Point, the CEO of BJ&K Construction, Inc., a general contractor in Fort Lauderdale;
  - Gonzalo DeRamon, 52 of Coral Gables, a co-founder of Biscayne Housing Group (“BHG”), a former low-income housing developer in Miami;
  - Michael Cox, 48 of Miami, a co-founder of BHG;
  - Rene Sierra, 58 of Southwest Ranches, a founder of Siltek Affordable Housing LLC, a former general contractor in Planation; and
  - Arturo Hevia, 64 of Miramar, a founder of Design Management and Builders Construction, a general contractor in Doral.
- l) The court record indicates that Boggio and Greer, of CDG, conspired with Runyan of BJ&K Construction to unjustly enrich themselves by submitting fraudulently inflated low-income housing construction contracts to Florida Housing’s credit underwriters in order to obtain excess federal tax credits and grant monies to which they were not entitled, and then to use the proceeds for their personal use and benefit. Boggio, Greer, and Runyan caused the submission of fraudulently inflated construction contracts on at least eight developments, which resulted in the allocation of excess funding. With these funds, Runyan made kickback payments for the benefit of Boggio and Greer.
- m) According to the record, Boggio and Greer also conspired with Cox and DeRamon of BHG to steal government money intended to build low-income housing developments. BHG employed the same contract inflation scheme of submitting fraudulently inflated contracts to Florida Housing for the receipt of excess federal tax credits and grant monies on two housing developments jointly developed by CDG and BHG, as well as on four housing developments that BHG developed alone.
- n) Both during and after construction of the developments, the contractors made periodic kickback payments of the fraudulent contract inflation monies for the benefit of the CDG and BHG principals, including more than \$26 million in kickbacks from Runyan for the benefit of Greer and Boggio; more than \$6.2 million in kickbacks from Sierra for the benefit of DeRamon, Cox, Greer, and Boggio; and more than \$1 million in kickbacks from Hevia for the benefit of DeRamon and Cox.
- o) The original funding for 13 of the 14 developments involved was awarded through a competitive application process known at the time as Florida Housing’s “Universal Application.” That application was a very open and transparent, but time consuming, process. All applications were posted on line and applicants had opportunities to critique the scoring of their competitors’ applications. After passing certain threshold “pass/fail” criteria and earning

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points for other items, the final delineator was a lottery tie-breaker. During the period these funding awards were made (2006-2009), the lottery tie-breaker was the delineating factor. No awards could be won as a result of manipulating the construction contract process, which does not get introduced until the post-award credit underwriting phase. This is true of the process during that time, and remains true of all of Florida Housing's competitive funding processes today.

- p) Sophisticated private investor groups were also involved as ownership partners in most of these development transactions, carrying out their own credit underwriting prior to closing on partnership agreements with their developer partners. Three investor groups --- The Richman Group (on 4 of the CDG transactions), Enterprise Housing Partners (on 3 of the BHG transactions), and National Equity Fund (on 1 of the BHG transactions) --- were involved and were also defrauded.
- q) From August to September 2015, six of the seven defendants pled guilty (sentencing has not yet occurred). Trial preparations then began for the final defendant, former CEO of CDG, Lloyd Boggio. On Monday, September 12, 2016, Lloyd Boggio pled guilty to one count of money laundering, in violation of Title 18, U.S. Code, Sec 1957, in conjunction with his participation in the schemes to defraud the U.S. government of funding intended for the construction of low-income housing developments. Boggio is scheduled to be sentenced on December 9, 2016.
- r) At its October 2015 meeting, Florida Housing's Board of Directors issued Orders of Ineligibility for the three developer defendants that had pled guilty (Cox, DeRamon and Greer) invoking the maximum penalty allowed by §420.507(35), Fla. Stat. (2015), which at the time was two years.
- s) Throughout the 2016 Regular Legislative Session process (which began with committee weeks in late 2015), Florida Housing worked with the Legislature to pass SB 1534 Relating to Housing Assistance – which, among other things, allows for stronger penalties for fraud and material misrepresentation – and it was signed into law by Governor Scott. Section §420.507(35), Fla. Stat. (2016) now empowers the Board to impose ineligibility periods up to and including permanent bans from seeking funding from Florida Housing's programs.

## 2. Present Situation

- a) Rule 67-48.004(2), Fla. Admin. Code (Rev. 9-16-15), now authorizes the Board to determine that an Applicant, or any Affiliate of an Applicant, will be permanently ineligible for funding or allocation in any Corporation program if that person has engaged in fraudulent actions involving the Corporation, or been convicted of fraud, theft, or misappropriation of funds. With the guilty plea of the final defendant, Boggio, the Board may now issue Administrative Complaints and Orders of Ineligibility for those defendants not declared ineligible in October 2015: Boggio, Hevia, Runyan and Sierra.
- b) Per the Rule above, conviction of the offenses of which these defendants are accused creates the rebuttable presumption that they have made material misrepresentations and engaged in fraudulent actions in connection with Applications for Corporation funding. In order to prevent Boggio, Hevia, Runyan and Sierra from continuing to benefit from Corporation programs, the

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Board must enter a separate Administrative Complaint and Order of Ineligibility for each defendant, rendering them ineligible to participate in any Corporation programs in the future. These orders will also make them ineligible to receive funding even if they have received a preliminary funding award.

### **3. Recommendation**

- a) That the Board issue Administrative Complaints and Orders of Ineligibility making Lloyd Boggio, Arturo Hevia, Michael Runyan and Rene Sierra permanently ineligible to participate in any Corporation program, effective from the date of the Orders.

## LEGAL

### *Action Supplement*

#### I. LEGAL

##### A. **St. Elizabeth Gardens et. al. v. Florida Housing Finance Corporation, FHFC Case Nos. 2015-028BP et. seq.**

###### 1. **Background**

- a) This case regards RFA 2015-111: Housing Credit Financing for the Preservation of Existing Affordable Multifamily Housing Developments (the “RFA”). On June 24, 2016, Florida Housing posted notice of its intended decision to award funding to five Applicants including Intervenors Three Round Towers, Cathedral Towers, Isles of Pahokee Phase II, and SP Manor (aka Lummus Park). Petitioners St. Elizabeth Garden Apartments, Marian Towers, WCAR (aka Woodcliff), SJRAR (aka St. Johns), and CPAR (aka Colonial) were determined to be ineligible for funding. Intervenor, Haley Sofge Preservation was found eligible but not entitled to funding based on the scoring and ranking criteria of the RFA.
- b) All Petitioners timely filed notices of intent to protest followed by formal written protests. Those cases were referred to the Division of Administrative Hearings (DOAH) on July 22 and ultimately consolidated into a single case. Because there were no disputed issues of material fact, the proceeding was conducted as an informal hearing under Section 120.57(2).
- c) Initially, St. Elizabeth and Marian Towers were challenging Florida Housing’s determination that arrearage issues rendered their applications ineligible. Florida Housing agreed that its initial determination was in error and these applicants should have been deemed eligible for funding, although they were not actually selected for funding.
- d) RFA 2015-111 required applicants claiming the existence of RD 515 financing to provide a letter from the USDA RD Program dated within six months of the application deadline to demonstrate that RD 515 financing was in place. Woodcliff, Colonial, and St. Johns were found to be ineligible because their RD letters were dated more than six months before the application deadline. They argued at hearing that Florida Housing should have waived this as a minor irregularity because the letters were only a few weeks too old.
- e) Rental Assistance (RA) from USDA or HUD is provided to some existing developments in order to make up for shortfalls in monthly rent paid by tenants. One of the “tie-breakers” for RFA 2015-111 was an RA preference based on the percentage of units receiving RA. Applicants were assigned an RA level of 1-6 depending upon this percentage, with a level of 1 having the highest preference.
- f) St. Elizabeth submitted the required letter from HUD demonstrating the number of units that will receive rental assistance, but that letter included a caveat that one of these units was not currently receiving rental assistance and that HUD was processing a request to transfer budget authority so that unit would receive rental assistance. Florida Housing assigned St. Elizabeth an RA level of 2 based upon the uncertainty in the number of units that will receive rental assistance, which had the effect of precluding it from funding. St. Elizabeth argued that Florida Housing should have assigned it an RA level of one based on a proper reading of the letter and consistency with past practices.

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### *Action Supplement*

- g) Marian Towers was assigned an RA level of one, but was not selected for funding due to its lottery number. It argued that Three Round Towers and Haley Sofge should have been assigned RA levels of six because their HUD letters contained conditional language; had that happened, Marian Towers would have been selected for funding based on tie-breakers.

#### 2. Present Situation

- a) A hearing was conducted on August 16, 2016, before Administrative Law Judge Garnett W. Chisenhall. All parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order on October 18. The Recommended Order affirmed Florida Housing's scoring and ranking decisions on all issues. A copy of the Recommended Order is attached as [Exhibit A](#).
- b) St. Elizabeth and Marian Towers filed Exceptions to the Recommended Order on October 24, which are attached as [Exhibit B](#). Counsel for Woodcliff, St. Johns and Colonial have not filed Exceptions. Florida Housing and Intervenors jointly filed Responses to the Exceptions on October 25, which are attached as [Exhibit C](#).

#### 3. Recommendation

- a) Staff recommends that the Board adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order (modified as recommended in the Response to Exceptions), and the Recommendation of the Recommended Order, and issue a Final Order in accord with such decisions.



**MULTIFAMILY PROGRAMS**

*Action*

**II. MULTIFAMILY PROGRAMS**

- A. Request Approval to Increase the Maximum Eligible Funding Award Amount for Silver Place, (RFA 2016-105/2016-336G), Kaden Place, (RFA 2015-105/2015-274G), Neff Lake Estate IV, (RFA 2015-105/2015-270G), and Little Ranch Estate, (RFA 2015-105/2015-268G)**

<b>Development Names:</b> a. Silver Place, 2016-336G b. Kaden Place, 2015-274G c. Neff Lake Estate IV, 2015-270G d. Little Ranch Estate, 2015-268G	<b>Locations:</b> a. Silver Place – Putnam County b. Kaden Place – Duval County c. Neff Lake Estate IV – Hernando County d. Little Ranch Estate – Pasco County
<b>Applicant/Borrower:</b> a. Silver Place - The Arc of Putnam County, Inc. b. Kaden Place - The Arc Jacksonville, Inc. c. Neff Lake Estate IV - The Arc Nature Coast, Inc. d. Little Ranch Estate - The Arc Nature Coast, Inc.	<b>Set-Asides:</b> a. Silver Place – 2 residents at 45% AMI b. Kaden Place – 2 Residents at 35% AMI c. Neff Lake Estate IV –2 Residents at 40% AMI d. Little Ranch Estate – 2 Residents at 40% AMI
<b>Demographic: Persons with Developmental Disabilities</b>	<b>Number of Units: 6 Residents Per Community Residential Home</b>
<b>Requested Amounts: \$392,000.00 for each</b>	<b>Development Category/Type: Community Residential Homes (“CRH”)</b>

**1. Background/Present Situation**

- a) Silver Place (RFA 2016-105/2016-336G), Kaden Place (RFA 2015-105/2015-274G), Neff Lake Estate IV (RFA 2015-105/2015-270G), and Little Ranch Estate (RFA 2015-105/2015-268G) are Community Residential Homes (“CRH”) serving 6 residents per CRH located in various counties throughout the state.
- b) The Applicants have requested Board approval to waive the Maximum Eligible Funding Award Amount in Request for Applications 2016-105 Financing to Build or Rehabilitate Smaller Permanent Supportive Housing Properties for Persons with Developmental Disabilities and Request for Applications 2015-105 Financing to Build Smaller Permanent Supportive Housing Properties for Persons with Developmental Disabilities. Specifically, the Applicants state that the State’s adoption on July 1, 2016 of the 2014 National Fire Safety Standards has significantly increased costs to build CRHs for 6 person licensed group homes. See Exhibits [A](#), [B](#), [C](#) and [D](#) for the Applicants’ requests.
- c) The Applicants’ approximate that increasing the Maximum Eligible Funding Award Amount an additional \$25,000 will cover the additional costs due to the new fire safety standards.

## MULTIFAMILY PROGRAMS

### *Action*

2. **Recommendation**
  - a) Approve the Applicants' request to waive the Maximum Eligible Funding Award Amount and increase it by \$25,000.00 for the Applicants referenced above.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

### III. PROFESSIONAL SERVICES SELECTION (PSS)

#### A. Request Approval of Response to the Request for Qualifications (RFQ) 2013-01 for Housing Counseling Agencies to Provide Services for the Foreclosure Counseling Program (FCP)

##### 1. Background

- a) On January 17, 2013, the Legislative Budget Commission approved a \$10 million allocation from National Mortgage Settlement funds to provide foreclosure counseling services to be administered by Florida Housing. The funding allows Florida Housing to carry out the following objectives:
  - (1) Help prevent homeowners from going into foreclosure; and
  - (2) Provide at-risk homeowners with good financial management education to help them better manage their money and assist them with credit problems to become financially stable.
- b) On February 1, 2013, the Board approved a staff recommendation to issue an RFQ for HCAs for the implementation of the FCP funded through the National Mortgage Settlement. Participating HCAs develop an action plan for each client that is tailored to their needs and is revised as circumstances change, and will assist them with loan servicer and other contacts throughout the process. The goal is to provide families with the ability to follow a tailored plan throughout the modification or foreclosure process, even after counseling is completed. In addition to an action plan for their situation, many families also need financial education to ensure that these situations are less likely to occur in the future.
- c) The RFQ allowed for HCAs to respond beyond the original submission date so that Florida Housing can maximize the number of qualified agencies to provide adequate foreclosure counseling coverage across the state.

##### 2. Present Situation

- a) Currently, there are 42 active contracts with HCAs to participate in the FCP. One additional HCA, Catholic Charities, Diocese of St. Petersburg, Inc., has applied to participate in the FCP.
- b) On October 13, 2016, the proposal was reviewed by the RFQ review committee and was recommended for approval as an acceptable HCA for the FCP.

##### 3. Recommendation

- a) Authorize staff to approve Catholic Charities, Diocese of St. Petersburg, Inc. as an acceptable HCA for the FCP as recommended by the RFQ review committee on October 13, 2016.

## SINGLE FAMILY BONDS

### *Action*

#### IV. SINGLE FAMILY BONDS

##### A. Request Approval to Issue Mortgage Credit Certificates (MCC)

###### 1. Background

- a) Florida Housing's Board previously approved Single Family Program Staff's request to create and implement its current Mortgage Credit Certificate (MCC) Program on September 19, 2014. The Program rollout date was January 1, 2015 and the Program will end on December 31, 2016 or earlier if the allocation is exhausted.
- b) Mortgage Credit Certificates are nonrefundable, federal tax credits that provide a form of housing assistance to persons with low and moderate incomes. The holder of an MCC receives an annual tax credit that the holder can apply against his or her federal tax liability in each year the MCC is effective. The annual amount of the tax credit will be set at an amount between 10% and 50% of the yearly interest paid or accrued on the holder's mortgage loan; provided however, that if the credit rate exceeds 20%, the annual amount of the credit may not exceed \$2,000. (See Attachment 1 hereto for an example of determining the amount of the credit). The effect of the tax credit is to increase the homebuyer's after-tax pay and thus increase his or her ability to afford a home. To qualify for an MCC, the homebuyer must meet the IRS requirements for income, purchase price and first time homebuyer status.
- c) Before issuing MCCs, Florida Housing must elect not to issue an amount of qualified mortgage bonds and other private activity bonds it otherwise could issue (including any unused carry forward from previous years). Pursuant to the Internal Revenue Code, MCC's use \$4 of bond volume cap for every \$1 of MCC issued. Notice to the public regarding the issuance of MCCs, including the eligibility requirements and the method for issuing MCCs, must be published at least 90 days prior to issuing any MCCs.

###### 2. Present Situation

- a) Florida Housing presently has \$444,108,835 of 2013 carry forward volume cap which must be used for mortgage revenue bonds or mortgage credit certificates on or before December 31, 2016. Electing to convert all or a portion of this 2013 carry forward into a mortgage credit certificate program would extend the expiration date of this carry forward to December 31, 2018.
- b) Florida Housing recently completed issuance of the 2016 Series 2 Bonds in the amount of \$75,000,000. Due to the unfavorable pricing that exists for housing bonds, we anticipate selling minimal amounts of additional mortgage revenue bonds through the end of the year.

## SINGLE FAMILY BONDS

### *Action*

- c) Staff proposes to elect to not issue up to \$444,108,835 million of its 2013 carry forward volume cap as mortgage revenue bonds and to make such volume cap available for a new MCC Program that will offer up to \$111,027,209 million of MCCs. Staff plans to begin the new MCC Program in early January 2017 and will, pursuant to IRS rules, end it on the earlier of the date all MCCs are issued under the new MCC Program or December 31, 2018. The guidelines and parameters for eligibility in the MCC Program will generally follow the same guidelines and parameters applicable to the types of borrowers and types of properties that qualify for Florida Housing's Single Family Bond Program.
- d) Florida Housing launched the initial 2012 MCC Program on June 1, 2012. Since that time, program staff have continually recruited and trained new participating lenders, as well as educated our Realtor© partners through continuing education classes. These efforts have paid off. By the end of December 2015, Florida Housing had issued a total of 1614 MCC's – and the program continues to grow. We currently have 118 participating lenders and, in 2016 alone, we have already issued 1054 MCCs. Lenders, Realtors© and borrowers are now familiar with MCC's and are using the program to assist first time homebuyers purchase a home.

### 3. **Recommendation**

- a) Staff recommends that the Board approve Resolution 2016-52 (attached hereto as Attachment 2), authorizing Single Family Program Staff to take all action necessary to create and implement the new 2016 MCC Program, subject to further approvals by bond counsel, special counsel, and the appropriate Florida Housing Staff.

## SINGLE FAMILY BONDS

### *Action*

#### **Attachment 1**

#### **Determining the Amount of the Credit**

To determine the amount of the credit, the loan amount is multiplied by the interest rate, the product of which is then multiplied by the credit rate. This number may be divided by 12 to obtain the monthly savings amount for income qualification purposes. For example:

- \$100,000 Loan Amount
- 4.50% Interest Rate\*
- 50% credit rate

$\$100,000 \times .045 = \$4,500$

$\$4,500 \times .50 = \$2,250$  (NOTE: because the credit rate exceeds 20%, the amount of the credit is capped at **\$2,000** annually)

This equates to a \$2,000 annual federal tax credit or \$166.66 monthly credit.

This credit can be incorporated into the tax withholding calculation by the employer to lower the withholding per pay period.

\*For purposes of this example, simple interest is used.

## SINGLE FAMILY BONDS

### *Action*

### **Attachment 2**

#### RESOLUTION NO. 2016-52

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FLORIDA HOUSING FINANCE CORPORATION AUTHORIZING THE ISSUANCE OF MORTGAGE CREDIT CERTIFICATES (“MCCs”) AND THE ESTABLISHMENT OF AN MCC PROGRAM; ELECTING TO NOT ISSUE MORTGAGE REVENUE BONDS IN LIEU OF ISSUING MCCs; AUTHORIZING THE EXECUTIVE DIRECTOR TO FILE AN ELECTION WITH THE INTERNAL REVENUE SERVICE, TO DETERMINE THE MCC RATES, TERMS AND CRITERIA AND TO GIVE PUBLIC NOTICE OF THE MCC PROGRAM; AND PROVIDING AN EFFECTIVE DATE

**WHEREAS**, the Florida Housing Finance Corporation (the “Corporation”) is authorized under the provisions of Chapter 420, Part V, Florida Statutes (the “Act”), to transact business for the purpose of financing affordable housing developments; and

**WHEREAS**, the Corporation is an authorized issuer of “qualified mortgage bonds” described in Section 143 of the Internal Revenue Code of 1986, as amended (the “Code”) and receives volume cap under Section 146 of the Code to issue such qualified mortgage bonds and other private activity bonds; and

**WHEREAS**, Section 25 of the Code and the regulations promulgated thereunder permit the Corporation to exchange its authority to issue qualified mortgage bonds and other private activity bonds for which it has volume cap (including any unused carry forward) in order to issue mortgage credits certificates (“MCCs”) under a qualified mortgage credit certificate program; and

**WHEREAS**, the Corporation desires not to issue qualified mortgage bonds from a portion of its volume cap so that such amounts may be used to issue MCCs in connection with the program authorized herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE FLORIDA HOUSING FINANCE CORPORATION AS FOLLOWS:**

1. That the Florida Housing Finance Corporation (the “Corporation”) does hereby elect, pursuant to Section 25 of the Code, not to issue up to \$444,108,835 million of qualified mortgage bonds (the “nonissued bond amount”) that the Corporation is authorized and has volume cap available to issue (including any unused carry forward). The nonissued bond amount is hereby allocated to the MCC Program established under this Resolution.
2. That it is the intention of the Board by this resolution to make a “mortgage credit certificate election” as provided in Section 25 of the Code.

## SINGLE FAMILY BONDS

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3. That the Board approves and authorizes the establishment of a program (the "MCC Program") of issuing MCCs, pursuant to the election described herein, to qualified homebuyers who incur mortgage loans for eligible purposes. The parameters and purposes of this MCC Program are attached hereto as Exhibit A and are now before the Corporation. Such parameters are hereby approved in substance, with such changes and modifications as the Executive Director, the staff and Counsel to the Corporation deem necessary and advisable, and are incorporated by reference as part of this Resolution.

4. That the Board hereby authorizes and directs the Executive Director of the Corporation to take all action necessary to create and implement the MCC Program of the Corporation which meets all requirements of state and federal law, including, but not limited to, determining the non-issued bond amount, filing notice of the election with the Internal Revenue Service, giving notice to the public of creation of the MCC Program (the form of which is attached hereto as Exhibit B), and approving the program guide, forms and other materials relating to the MCC Program.

**PASSED AND ADOPTED** this 28th day of October, 2016.

**FLORIDA HOUSING FINANCE  
CORPORATION**

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**Bernard E. Smith, Chairman**

**ATTEST:**

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**Hugh R. Brown, General Counsel**



# **SINGLE FAMILY BONDS**

## *Action*

### **Exhibit A to Resolution No. 2016-52**

#### **FLORIDA HOUSING FINANCE CORPORATION**

#### **MORTGAGE CREDIT CERTIFICATE 2016 PROGRAM PARAMETERS**

The mortgage credit certificate ("MCC") program will be established pursuant to Section 25 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder to complement the Corporation's single-family bond program (the "Bond Program"). The following is an outline of the general parameters of the MCC program.

1. The MCC program will follow the same general parameters applicable to the types of borrowers and type of properties which qualify for financing through the Bond Program. Likewise, the same type of certifications will be required of the recipient of the MCC.
2. MCCs shall be issued in connection with mortgage loans for the acquisition, construction, improvement and/or rehabilitation of single family residences within the State of Florida.
3. The MCC program will have the certificate credit rates, eligible loans and other terms and conditions determined by the Executive Director, all in accordance with Section 25 and the regulations.
4. The MCC program will be conducted through the end of the second calendar year following the calendar year in which the Corporation elects not to issue an amount of private activity bonds, or such shorter period selected by the Executive Director, unless a longer period is permitted by the federal tax laws.
5. MCCs shall not be required to be issued in conjunction with the debt of any particular lender.
6. MCCs shall be transferable, to the extent permitted by regulations of the Secretary of the Department of the Treasury of the United States of America and as approved by the Corporation.
7. MCCs to be used for or with respect to any particular developers or developments shall require the prior approval of the Corporation's Board.
8. The mortgage credit rate on the MCCs shall not be less than 10% nor more than 50%, which shall be established by the Executive Director from time to time.
9. The Executive Director of the Corporation shall notify the Secretary of the Treasury of the United States of America of any mortgage credit certificate revocation.
10. The Corporation may charge a processing fee, as established by the Executive Director, to each recipient of an MCC to defray the costs of administering the MCC Program.
11. During the first year of each MCC program, at least 20% of the MCCs shall be reserved for persons incurring loans relating to residences in certain targeted areas.
12. MCCs may be reissued in connection with certain mortgage loan refinancings as set forth in the Program Guide.

## Single Family Bonds

### *Action*

#### Exhibit B to Resolution No. 2016-52

### **PUBLIC NOTICE TO QUALIFIED HOMEBUYERS AND LENDERS FLORIDA HOUSING FINANCE CORPORATION 2016 MORTGAGE CREDIT CERTIFICATE PROGRAM**

The Florida Housing Finance Corporation (“FHFC”) proposes to implement a program (the “Program”) to provide Mortgage Credit Certificates (“MCCs”) to residents of the State of Florida who purchase new or existing residences within the State. An MCC reduces the amount of income tax a qualified homeowner pays by providing a non-refundable, federal tax credit during the life of a mortgage loan. After all other credits and deductions are taken into account the value of the MCC is applied directly to a homeowner’s remaining tax liability.

No sooner than 90 days following publication of this Notice, FHFC intends to issue MCCs according to the guidelines summarized below. The total credit authority available under the Program is \$111,027,208 which is expected to provide assistance with respect to \$222,054,416 in aggregate principal amount of mortgage loans.

The credit rate on an MCC will be 50%. The annual amount of the tax credit will be equal to the lesser of 50% of the yearly interest paid or accrued on the homeowner’s mortgage loan or \$2,000. The amount of the credit may not exceed the homeowner’s total tax liability for a specified year, but excess credit may be carried forward for up to three subsequent tax years. Use of an MCC will reduce the deduction for home mortgage interest on the homeowner’s tax return. An MCC expires on the date the mortgage loan relating thereto is paid in full or refinanced and is revoked on the date the residence to which it relates ceases to be the taxpayer’s primary residence. FHFC reserves the right to adjust the MCC credit rate or make allocations to specific sectors of the housing industry or to conform to market demand or future tax legislation.

To be eligible for an MCC, an applicant must (1) purchase a new or existing single-family home within the state; (2) acquire a new mortgage loan (refinancing of an existing mortgage or land contract is not permissible, except for certain construction loans); (3) continuously occupy the home as a primary residence within 60 days of its purchase; (4) purchase a home with a purchase price that does not exceed the applicable county limits; these limits range between \$255,573 and \$609,638; please refer to FHFC’s website at [www.floridahousing.org](http://www.floridahousing.org) for the specific purchase price limits for the county you are purchasing in; (5) have a household income, including all household members age 18 and older, that does not exceed the limits for the applicable county; these limits will range between \$57,700 and \$122,220 depending upon household size and the county of purchase; (6) have not had an ownership interest in a principal residence within the preceding three years, except for qualified homebuyers purchasing homes in federally designated targeted areas or certain qualifying veterans; and (7) pay a nonrefundable \$500 issuance fee at the time of loan closing. The applicant must sign all documents and affidavits which are needed to demonstrate eligibility for an MCC, and the regulations, rulings and interpretations issued by the Internal Revenue Service shall control in the event of a conflict with other requirements. FHFC reserves the right to adjust and/or waive the application fee and adjust the purchase price and income limits for the Program to reflect housing costs and market conditions within federal guidelines.

## Single Family Bonds

### *Action*

Until the total credit authority is exhausted, a qualifying taxpayer may obtain an MCC in connection obtaining financing relating to the purchase of an eligible residence from any participating lender, including, but not limited to, banks, savings and loan associations, mortgage banking firms and credit unions. The applicant must meet the credit and underwriting criteria established by the participating lender which provides the mortgage loan. MCC applications will be accepted on a first-come, first-served basis. There is no allocation of MCCs by lender; however, for the first year of the Program, 20% will be targeted to persons purchasing single-family homes in Targeted Areas.

Banks, savings and loan associations, credit unions, mortgage companies and other financing institutions and individuals are invited to participate as lenders. Each participating lender will be required to sign a Participation Agreement, which outlines the lender's loan review and reporting responsibilities, and pay to FHFC a one-time fee of \$1000. FHFC will make a list of participating lenders available to the public upon request. An applicant may also obtain a loan from a lender not on such list if the lender agrees to participate in the Program.

MCCs cannot be used with FHFC-financed mortgage revenue bond loans or with any mortgage loans subsidized by other tax-exempt obligations. Current federal tax law may require a payment to the federal government of a "recapture" tax if the homeowner sells or otherwise transfers his or her home to someone else within nine years after the MCC is issued.

For more information on the Program, to participate in the Program as a lender or to receive a copy of the current list of participating lenders or a list of the eligible Targeted Areas, contact Charles Jones at the Florida Housing Finance Corporation, 227 North Bronough ST., Ste 5000, Tallahassee, FL 32301 or email [charles.jones@floridahousing.org](mailto:charles.jones@floridahousing.org).

Dated: September 30, 2016

FLORIDA HOUSING FINANCE  
CORPORATION

By           /s/ Stephen P. Auger            
Executive Director

# SINGLE FAMILY HOMEOWNERSHIP PROGRAM

## *Action*

### V. SINGLE FAMILY HOMEOWNERSHIP PROGRAM

#### A. Single Family Homeownership Program

##### 1. Background

- a) Florida Housing issues bonds under two master bond indentures. The 2009 Homeowner Mortgage Revenue (Special Program) Bond Indenture (the “NIBP Master Indenture”) was created for the purpose of implementing the United States Treasury’s New Issue Bond Program (the “NIBP”). The NIBP Master Indenture is currently rated “Aaa” by Moody’s Investors Service. Florida Housing also issues single family bonds under its 1995 Homeowner Mortgage Revenue Bond Indenture (the “1995 Master Indenture”). The 1995 Master Indenture is currently rated “Aaa” by Moody’s Investors Service. In addition bonds issued under the 1995 Master Indenture prior to December 1, 2015 are also rated “AA+” by Standard and Poor’s Rating Service and “AA+” by Fitch Ratings.
- b) Florida Housing has approximately \$962.7 of volume cap that has been allocated for single family bond issuance. The \$962.7 consists of \$525.8 million of 2014 carry forward and \$436.9 million of 2015 carry forward. It is expected that additional allocation from 2016 will be added to the carry forward from prior years.
- c) Due to difficult conditions in the municipal bond market but attractive pricing of Mortgage-Backed Securities (“MBS”) in the mortgage market, commencing on October 31, 2008, the Board approved multiple resolutions allowing Staff to access funding for Florida Housing’s single family lending program through the sale of specified pools or To-Be-Announced (“TBA”) commitments in the MBS mortgage market purchased by Florida Housing under its Homeowner Mortgage Program (the “Single Family Program”). This year, through September 29, 2016 Florida Housing has sold over \$208.1 million of newly originated Ginnie Mae MBS and \$346.2 million of Fannie Mae MBS in this mortgage market. Staff expects to continue periodic funding of the Single Family Program through the sale of MBS when market conditions are favorable at the time of sale. Recently, however, financing alternatives in the municipal market have again become more attractive. The sale of bonds in the municipal market can be for: (1) refunding outstanding high coupon bonds that are currently subject to optional redemption, and (2) continuing Florida Housing’s single family lending program through the pooling of Mortgage Loans into Guaranteed Mortgage Securities under Florida Housing’s Homeowner Mortgage Program. Staff will continue to evaluate market conditions and, should market conditions warrant, may sell a portion or all MBS in the TBA or specified pool market, rather than issue bonds, to fund new production and refund the outstanding bonds subject to optional redemption.

**SINGLE FAMILY HOMEOWNERSHIP PROGRAM**

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**2. Present Situation**

a) Below is a chart of bonds that may be optionally redeemed in 2017:

<b>1995 Indenture</b>						
Bond Series	2007 Series 2	2007 Series 3&4	2007 Series 5	2007 Series 6	2008 Series 1	2008 Series 2
Bond Balance	\$17,785,000	\$15,135,000	\$12,025,000	\$14,630,000	\$9,430,000	\$13,365,000
Bond Yield	4.53%	4.61%	4.97%	4.78%	4.95%	5.68%

<b>NIBP Indenture</b>		
Bond Series	2009 B-2	2009 B-5
Bond Balance	\$16,720,000	\$66,370,000
Bond Yield	3.01%	2.32%

- b) Staff and its Independent Registered Municipal Advisor will determine the amount of refunding bonds to be issued and whether they are executed as one or more refunding transactions based upon market conditions. Florida Housing may also opt to sell a portion of the MBS backing such bonds and use the proceeds of such sale to optionally redeem the bonds should this be deemed more economically prudent.
- c) With regard to the issuance of new money bonds, conditions in the municipal bond market have improved significantly making the issuance of new money bonds feasible. Staff expects that it would be financially prudent to issue new money bonds under several separate series throughout 2017 to continue funding single family loans, including the potential to fund down payment assistance and closing cost assistance loans under its program.
- d) The investment banking team, bond counsels, independent registered municipal advisor and special counsels have been approved by the board pursuant a RFP/RFQ process. It is expected that the following professionals would participate in the issuances of the 2017 Phase One Bonds: (i) in alphabetical order Citigroup Global Markets Inc., Morgan Stanley & Co. LLC., Raymond James & Associates, Inc. and RBC Capital Markets LLC., will serve as senior and co-senior managing investment bankers for the bond sale; and (ii) Caine Mitter & Associates Incorporated will serve as the Independent Registered Municipal Advisor.
- e) The 2017 Phase One bonds will be issued under one of the following: the 1995 Master Indenture, the NIBP Indenture or a new master indenture but the aggregate amount of such 2017 Phase One Bonds shall not exceed \$450,000,000. The 2017 Phase One Bonds are expected to be rated “Aaa” by Moody’s Investors Service if issued under either the 1995 Indenture or the NIBP Indenture; provided, however that in consultation with the underwriting team and our Independent Registered Municipal Advisor, staff may opt to solicit ratings from additional rating agencies. The expected rating, if the bonds are issued under a new master indenture, is expected to be “Aaa” by Moody’s Investors Service. It is anticipated that the 2017 Phase One Bonds and any

## SINGLE FAMILY HOMEOWNERSHIP PROGRAM

### *Action*

additional new money bonds issued will, for the foreseeable future, be secured by MBS.

- f) Authorization necessary to issue the 2017 Phase One Bonds requires (1) adoption of an authorizing resolution by Florida Housing's Board and (2) approval of fiscal determination by the State Board of Administration. To work within the constraints of regularly scheduled public meetings and maintain Florida Housing's goal of providing continuously available single family mortgage funding and to take full advantage of the current market conditions for the refunding, the authorizing resolution for the 2017 Phase One Bonds is being presented for consideration at Florida Housing's October 28, 2016 meeting.
- g) Staff will determine the timing of issuance, size of issuance and the most applicable documents for the issuance of each series of 2017 Phase One Bonds based upon prevailing market conditions and recommendations from the Independent Registered Municipal Advisor.
- h) To ensure sufficient time for obtaining required approvals for the 2017 Phase One Bonds, authorization is hereby requested to commit up to \$65 million of Indenture assets and/or other funds available to Florida Housing to provide interim funding for single family mortgage backed securities and down payment assistance and closing cost assistance loans. Additionally, Florida Housing may also use the line of credit secured with the Federal Home Loan Bank as previously approved by the Board.
- i) [Exhibit A](#): Board Resolution

### 3. **Recommendation**

- a) Staff recommends the Board approve the necessary funding, staff actions and the Resolution to permit the issuance of the proposed 2017 Phase One Homeowner Mortgage Revenue Bonds.