

ADMINISTRATIVE CODE  
67 — FLORIDA HOUSING FINANCE CORPORATION

CHAPTER 67-38 — PREDEVELOPMENT LOAN PROGRAM

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67-38.002 — Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, Florida Statutes, as amended, and more specifically referenced in the Predevelopment Loan Program Act, Sections 420.521 through 420.529, Florida Statutes.

(2) "Administrative Expenses" means expenses incurred by the Applicant as a direct result of and solely related to the Development. These shall include long distance phone calls, necessary travel (except to conferences, conventions or for training), copying, printing, and postage fees.

(3) "Affiliate" means any person or entity that (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant, (ii) serves as an officer or director of the Applicant, or (iii) is the spouse, parent, child, sibling, or relative by marriage of a person or entity described in (i) or (ii) above.

(4) "Applicant" means any unit of government, a local housing authority established pursuant to Chapter 421, a community-based or not-for-profit organization, or a limited partnership if its general partner is a community-based or not-for-profit organization as defined by Chapter 420.523, Florida Statutes, that submits an Application for funding from the Predevelopment Loan Program. "Applicant" includes a sponsor as defined by Section 420.523 of the Florida Statutes.

(5) "Application" means the completed forms from the Application Package together with exhibits submitted to the Corporation in accordance with this Rule Chapter in order to apply for PLP funds.

(6) "Application Package" means the forms, tabs, threshold requirements, and instructions thereto and other information necessary for submission of an Application under the Predevelopment Loan Program, obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The Corporation hereby adopts by reference the Application Package (Form PLP 2000), which shall be completed and submitted to the Corporation by an Applicant in accordance with this Rule Chapter in order to apply for PLP funds.

(7) "Board of Directors" or "Board" means the Board of Directors of the Florida Housing Finance Corporation.

(8) "Code" means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued with respect thereto by the Treasury or the Internal Revenue Service of the United States.

(9) "Compliance Period" means:

(a) with respect to multifamily Developments that obtain construction/permanent financing from a source other than Florida Housing programs and no Florida Housing funds remain in the Development, a period of 15 years beginning on the date the Predevelopment Loan is paid off pursuant to Rule Chapter 67-38.007 (5); or

(b) with respect to single family Developments, the initial sale of the single family units by the Applicant must be to an income eligible purchaser.

(c) with respect to Developments that obtain construction/permanent financing from Florida Housing programs, a period equal to the compliance period committed to by the Applicant under the Florida Housing program from which the permanent/construction financing is obtained.

(10) "Corporation" or "Florida Housing" or "FHFC" means the Florida Housing Finance Corporation, a public corporation and the successor to the Florida Housing Finance Agency.

(11) "Credit Underwriter" means the legal representative under contract with the Corporation having the responsibility for providing stated credit underwriting

services. Such services shall include, for example, a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and Development team to proceed and evidence of the need for affordable housing in order to determine that the Development meets the program requirements.

(12) "Development" means the buildings, structures, fixtures and all other improvements to the Development Site proposed by an Applicant and for which financial assistance under the Predevelopment Loan Program(s) has been applied for or received.

(13) "Development Plan" means the written description/narrative of the proposed Development submitted to the Corporation by the Applicant with the concurrence of the Technical Assistance Provider detailing the Applicant's objectives and goals with respect to the Development, from formulation of the development concept through construction, leasing, operation or sale. The Development Plan shall clearly set forth the Applicant's anticipated sources to fund all anticipated predevelopment expenses, including those in excess of the amounts to be requested under the Predevelopment Loan Program, if any, and the sources and uses of construction and permanent financing.

(14) "Development Site" means the land for the Development, as defined by the legal description in the Development Plan and the documents evidencing or securing the Loan.

(15) "Farmworker" means any laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derives at least 50% of his income in the immediately preceding 12 calendar months from such employment.

Farmworker includes a household of one or more persons wherein at least one member of the household is a Farmworker, or a person who has retired from such work due to age, disability or illness. "Farmworker" also includes a person who has retired as a laborer described in this paragraph due to age, disability or illness and a household of one or more persons wherein at least one member of the household is a Farmworker, or a person who has retired as a laborer due to age, disability or illness. In order to be considered retired as a Farmworker due to age under this Rule Chapter, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a Farmworker immediately preceding retirement. In order to be considered retired as a Farmworker due to disability or illness, it must be:

(a) Medically established that the person is unable to be employed as a Farmworker due to such disability or illness; and

(b) Established that the person had previously met the definition of a Farmworker.

(16) "HUD" means the United States Department of Housing and Urban Development.

(17) "Invitation to Participate" means a letter issued by the Corporation to each Applicant that met threshold detailing the Applicant's obligations with respect to the line of credit Loan to be received from the Predevelopment Loan Program.

(18) "Loan" means PLP funds awarded to an Applicant in the form of a line of credit in an amount not to exceed \$500,000 subject to availability of funds.

(19) "Loan Committee" or "Review Committee" means a group composed of at least five persons as designated by the Board who will be responsible for

review and approval of Applications under the PLP Program. Meetings of the Loan Committee shall be called by the Chairperson of the Committee who shall be appointed by the Executive Director.

(20) "Local Government" means a unit of local general-purpose government as defined in Section 218.31 (2), Florida Statutes (1995).

(21) "Minimum Set-Aside Requirement" means, with respect to PLP,

(a) for rental Developments, a minimum of 60% of the completed housing units must be rented to persons whose income does not exceed 60% of the median income for the area, as determined by HUD, with adjustments for family size; and

(b) for home ownership Developments, all completed housing units must be sold to persons or households with incomes not exceeding 80% of the median annual gross income as established by HUD for households within the State, the MSA or, if not within the MSA, within the county in which the person or household resides, whichever is greater.

(22) "Mortgage" means a written agreement securing a Loan which creates a lien on the Development and the Development Site, subject only to such encumbrances approved by the Corporation.

(23) "Not-For-Profit Organization" or "Community-Based Organization" means any group, established under Chapter 617, Florida Statutes, to provide housing and other services on a not-for-profit basis and that is acceptable to federal and state agencies and financial institutions as a sponsor of Affordable housing. The Not-For-Profit Organization or Community-Based Organization shall not be affiliated with or controlled by a for-profit corporation and shall materially participate in the predevelopment, construction and operation of the Development through the Compliance Period. In addition to the foregoing, if the Applicant is a limited partnership, the Not-For-Profit Organization or "Community-Based Organization" must own at least 51% of the ownership interest in the Development held by the general partner entity. For purposes of housing credits the Not-For-Profit Organization means a qualified not-for-profit entity as defined in the HUD regulations Section 42(h)(5)(c), subsection 501(c)(3) or 501(c)(4) of the Code and organized under Chapter 617, Florida Statutes, to provide housing and other services on a not-for-profit basis, which owns at least 51% of the ownership interest in the Development held by the general partner entity and which entity is acceptable to federal and state agencies and financial institutions as an Applicant for affordable housing.

(24) "PLP" or "Predevelopment Loan Program" means the Predevelopment Loan Program established by the Act and this Rule Chapter.

(25) "Predevelopment" means the tasks and activities set forth in the Development Plan to be accomplished prior to construction of the housing units.

(26) "Preliminary Underwriting Assessment" is an analytical review by the Credit Underwriter of the Applicant's development costs, sources of funds and pro forma operating statement to ensure the Development's feasibility and shall prioritize tasks which must be accomplished prior to obtaining construction and permanent financing.

(27) "Rehabilitation" means to bring a Development back to its original state, or to bring back to its original state with added improvements with limitations as

specified by the program or programs which provide construction/permanent financing to the development.

(28) "Servicer" means the legal representative under contract with the Corporation having the responsibility for providing stated loan servicing and administration and compliance monitoring services. Such services shall include, for example, reviewing and approving Loan disbursement requests for site acquisition, loan servicing and single family and multifamily compliance monitoring services, if any.

(29) "Servicing and Compliance Monitoring Fees" means fees associated with the review and processing of requests for disbursement of funds, inspections and the monitoring of Developments.

(30) "State" means the State of Florida.

(31) "Technical Assistance Provider" means a professional retained by the Corporation to provide specialized technical support and assistance to Applicants in the form of telephonic, on-site visits and responses to oral and written inquiries from Applicants throughout the entire Predevelopment process and to provide such other services as agreed to by the Technical Assistance Provider and the Corporation.

Specific Authority 420.528 FS.

Law Implemented 420.507 , 420.521 — 420.529 FS.

History — New 3-23-93, Amended 1-6-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00.

67-38.0025 — Notice of Funding Availability.

(1) Annually, the Corporation shall publish in the Florida Administrative Weekly a Notice of Funding Availability (NOFA) setting forth the availability of PLP funding for eligible PLP activities during the year. The NOFA shall be mailed to each person and organization on the mailing lists for the Corporation's PLP program.

(2) The NOFA shall specify a priority for Farmworker Developments.

(3) PLP funding shall be available to Applicants whose Applications have met threshold, on a first-come, first-served basis pursuant to this Rule Chapter, except for Applications for Farmworker Developments which shall receive priority.

(4) If an Application is submitted and has been determined to meet threshold but no funding is available, the Applicant shall be placed on a waiting list in an order determined by the date completed Application is submitted to the Corporation. If an Application is submitted and does not meet threshold, the priority of the Application on the waiting list is determined by the date the Application is determined to have met threshold and be deemed complete, not the date the Application was submitted.

Specific Authority 420.528 FS.

Law Implemented 420.527 FS.

History — New 1-16-96, Formerly 9I-38.0025, Amended 3-26-98, 7-17-00.

67-38.003 — Application Submission Procedures.

- (1) At any time during the year, Applicants may submit Applications to the Corporation for PLP funding.
- (2) All Applications delivered by hand must be presented to Corporation staff to be inscribed with the time and date of receipt.
- (3) Applications which do not contain required items and do not provide adequate justification for omitting these items shall not be reviewed by the Loan Committee until they are complete.
- (4) An original and two identical copies of the Application shall be submitted to the Corporation. Each Application shall be completed in its entirety. The Application which is considered the original must contain original signatures on those forms which specifically request original signatures. Signatures which are faxed, scanned, photocopied, or otherwise duplicated will not be considered acceptable signatures within the original Application.
- (5) All Applications must be complete, accurate, and legible and must be accompanied by Application fee. Applications must be submitted on the forms provided in the Application Package and shall be securely bound, in a three ring binder and have numbered index tabs for each form and exhibits with the materials provided in the Application Package. Exhibits must be placed behind each form to which they refer. Failure to comply with any of the foregoing requirements will result in the determination that the Application is not complete.
- (6) If the Applicant, any of its principals or Affiliates, including the Developer, or any member of the Project's development team are determined by the Corporation to have engaged in fraudulent actions, or to have intentionally misrepresented information in any previous application(s) or other documents submitted to the Corporation, the Applicant, its principals and Affiliates, including the Developer, shall be deemed ineligible to participate in any program administered by the Corporation for two fiscal years beginning on the date the Corporation's Board of Directors approves the disqualification. Such determination shall be either pursuant to a factual hearing before the Board at which the Applicant shall be entitled to present evidence or as a result of a finding by a court of law or recommended order of an administrative law judge.

Specific Authority 420.528 FS.

Law Implemented 420.527 , 420.528 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 91-38.003, Amended 3-26-98, 7-17-00.

67-38.004 — Incomplete Applications and Rejection Criteria.

- (1) Each Application shall be reviewed by the PLP staff to determine that the Application meets threshold and is complete. Complete Applications which have met threshold will be forwarded to the Loan Committee for action pursuant to the requirements specified in this Rule Chapter. If an Application is determined by staff to be incomplete, or fails threshold, staff shall notify the Applicant in writing of any additional or revised information or material which may be required for Application to be considered complete and meet threshold. Applicant may continue to submit material until Application is complete and meets threshold. The Application, however, will not be placed in priority order on a waiting list until such time that all items have been submitted and Application is determined to be complete and threshold has been met.

(2) An Application shall be subject to rejection if any of the following occurs:

(a) The information submitted in the Application is not sufficient to demonstrate that the Development proposes to meet the Minimum Set-Aside Requirements;  
or

(b) The Applicant, its principals or Affiliates, including the Developer, has not waited the time period specified in Rule 67-38.003 (6), F.A.C.; or

(c) The Development is inconsistent with the purposes of the Predevelopment Loan Program or does not conform to the requirements specified in this Rule Chapter; or

(d) The Applicant fails to meet the threshold requirements specified in the Application Package; or

(e) The Applicant fails to submit additional items and complete information necessary for the Application to be considered complete; or

(f) The Applicant fails to pay the applicable fees as specified in Rule 67-38.011 (1)(b), F.A.C.

Specific Authority 420.528 FS.

Law Implemented 420.527 , 420.528 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 91-38.004, Amended 3-26-98, 7-17-00.

67-38.005 — Application Evaluation and Award Guidelines.

(1) After the Application has been reviewed and determined to be complete and has met threshold, using the factors specified in the Application Package and this Rule Chapter, staff shall prepare a recommendation and submit it along with the Application to the Loan Committee which shall confirm or reject the completion and threshold finding of staff.

(2) If the Loan Committee rejects the Application, Applicant will be notified in writing of the reason for rejection of the Application and provided an opportunity to rectify any outstanding issues which may have caused rejection of the Application.

(3) If the Loan Committee confirms the completeness and threshold finding of staff and

(a) funds are available, Florida Housing shall issue an Invitation to Participate; or

(b) if funds are not available, Applicant will be placed on a waiting list, based on the date and time an Application was determined to be complete and have met threshold until such time that;

1. funds are available, at which time the Applicant will be issued an Invitation to Participate, or

2. Application is withdrawn.

(4) The Invitation to Participate must be executed and returned to the Corporation within 15 days of receipt. If the executed Invitation to Participate is not received by the Corporation within 15 days, the Invitation to Participate will be withdrawn and Applicant shall be so notified.

(5) Upon receipt of executed Invitation to Participate by the Corporation, the Corporation shall assign a Technical Assistance Provider. The Technical Assistance Provider shall work with the Applicant to formulate a Development Plan. The Development Plan shall include a preliminary budget and timeline and set forth all predevelopment activities necessary to obtain construction and permanent financing for the Development. The Development Plan should also indicate, to the extent possible, the amount of PLP funds expected to be needed. The Applicant shall be given up to six months from the execution of the Invitation to Participate to complete and submit the Development Plan. Florida Housing will cancel the Invitation to Participate if the Plan is not submitted within the six-month period and all Loan documents, if any, shall be cancelled.

(6) The Development Plan shall be submitted to Florida Housing for review and approval by the Loan Committee prior to any funds being disbursed. The Loan Committee may request additional revisions prior to approval of the Plan. If such revisions are requested prior to approval of the Development Plan, the Loan Committee will provide a deadline by which the revisions must be made and the Development Plan resubmitted to the Corporation. Subsequent revisions after approval of the Development Plan shall be allowed upon a favorable recommendation of the Technical Assistance Provider and the Loan Committee.

(7) Upon approval of the Development Plan, a line of credit loan agreement, promissory note and any other customary loan documentation will be executed by the Applicant.

(8) If a Development Plan does not receive approval by the Loan Committee, no funds will be disbursed other than for outstanding expenses and any funds which have been disbursed or are owed to the Technical Assistance Provider.

(9) Upon execution of all Loan documents, funds will be available for disbursement for eligible predevelopment activities as specified in this Rule Chapter.

Specific Authority 420.528 FS.

Law Implemented 420.527 , 420.528 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 91-38.005, Amended 3-26-98, 7-17-00.

67-38.007 — Terms and Conditions of the Loan.

(1) Applicants are required to work with the Technical Assistance Provider which shall provide services as described in this Rule Chapter. Fees of the Technical Assistance Provider shall be paid by Florida Housing.

(2) The maximum Loan amount to be disbursed shall not exceed the lesser of the predevelopment and acquisition costs (in those cases in which acquisition is determined to be necessary) and development costs incurred prior to permanent/construction loan funding for the Development, or \$500,000, which Loan shall be evidenced by a promissory note from the Applicant, bearing interest at a rate of 3% and secured by such customary documents and collateral as are necessary to secure repayment of the Loan.

(3) The Loan shall be non-amortizing and repayment of principal and interest shall be deferred until maturity. The Corporation is authorized to forgive such loan, and thereby make a grant to the Applicant for any monies that are unable to be repaid due to the Applicant's inability to obtain construction or permanent



financing for the Development. The Corporation shall not forgive the portion of the loan, if any, which is secured by a mortgage to the extent such loan could be repaid from the sale of the mortgaged property.

(4) In the event PLP funds are used to purchase a site, the PLP Loan must be in a first or second lien position and shall not share priority with any other liens unless approved by the Board.

(5) The Loan shall mature on the earlier of (i) the date of closing of the permanent/construction loan for the Development or (ii) 3 years from the date of execution of Loan documents or other such extended Loan maturity date approved by the Board. Approval by the Board of an extension of the maturity of a Loan shall be subject to the following:

(a) the recommendation of the Credit Underwriter and the Technical Assistance Provider that an extension of the Loan is likely to result in the successful completion of the Development;

(b) past performance of the Applicant and submission of:

1. a revised Development Plan, approved by the Technical Assistance Provider, reflecting the reasons for the extension and the tasks and activities to be completed during the extension period;

2. evidence of the Applicant's ability to complete the Development, and

3. an alternate financing plan in the event the original financing source withdraws.

(6) With respect to home ownership Developments, the Loan shall mature when the Development Site is released from the lien of the Mortgage held by the Corporation to secure the PLP Loan; however, prior to the maturity of the Loan the Corporation shall release individual lots within the Development Site from the lien of the Mortgage held by the Corporation upon the recommendation of the Credit Underwriter and a partial release payment in an amount acceptable to the Credit Underwriter and the Corporation.

(7) Prepayment of the Loan shall be permitted without penalty.

(8) Upon determination by the Board that other remedies are ineffectual or non-existent and that the best interest of Florida Housing is served by acceleration, the Loan may be accelerated in the event the following occurs:

(a) Proceeds of the Loan are used for any purpose not specified in the Development Plan, the documents evidencing or securing the Loan, the Act or this Rule Chapter; or

(b) The Development fails to meet or maintain the Minimum Set-Aside Requirement during the Compliance Period; or

(c) Sale, transfer, or conveyance of the Development without the prior written approval of the Corporation, as set forth in Rule 67-38.012, F.A.C.

(9) The Applicant shall submit progress reports evidencing successful completion of the requisite task and activities set forth in the Development Plan to the Corporation and the Technical Assistance Provider on a quarterly basis. Reports are due by the 10th of April, July, October, and January as long as funds are

outstanding.

(10) Florida Housing reserves the right to require an audit of Applicant's accounts and records relating to the PLP Loan funds. If the Applicant is required to perform an audit of its accounts and records, a copy of the same shall be delivered to the Corporation within 10 days of receipt thereof by the Applicant.

(11) The Applicant shall maintain all documents related to the Development, including copies of all contracts and performance bonds, during the term of the Loan and for 3 years following the maturity of the Loan as the same may be extended pursuant to this Rule Chapter.

(12) The Applicant shall comply with all provisions of the Florida Fair Housing Act (s. 760.20 — 760.37 , F.S.) and the Federal Fair Housing Act and shall not discriminate on the basis of disability, race, color, creed, familial status, sex or national origin in the employment of persons to work on the Development, or in the sale, lease or other disposition or use of the land or lots covered by the Mortgage securing the Corporation's Loan. All contracts executed by the Applicant relating to work or labor to be performed on the mortgaged property shall contain a similar nondiscrimination provision.

(13) With respect to home ownership Developments, in order to assure that such Developments will serve the target population and maintain the Minimum Set-Aside Requirements, in addition to the execution and recordation of the Land Use Restriction Agreement (LURA) upon initial purchase by the Applicant, all deeds conveying title to home ownership units shall contain restrictive covenants, encompassing all of the units in the Development for which the Predevelopment Loan Program funds are being used. The LURA shall reflect the provision that all these home ownership units must initially be purchased only by persons who do not exceed income limits established in Rule Chapter 67-38.002 (21), F.A.C.

(14) With respect to rental Developments, in order to assure that such Developments will serve the target population and maintain the Minimum Set-Aside Requirements, in addition to the execution and recordation of the Land Use Restriction Agreement (LURA), all deeds conveying title to real estate which is improved with rental units shall contain restrictive covenants which encompass all of the units in the Development and which shall provide for the continued rental of the units to persons within the target population for the Compliance Period. The Servicer shall conduct a review and physical inspection prior to closing of the construction/permanent financing to assure that the Development meets the Minimum Set-Aside Requirements and provides the intended benefit to the target population pursuant to the Act. The Corporation reserves the right to monitor each Development funded under the Predevelopment Loan Program at any time after completion of the Development to assure continued compliance with the applicable provisions of this Rule Chapter.

Specific Authority 420.528 FS.

Law Implemented 420.526 , 420.527 , 420.528 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 91-38.007, Amended 3-26-98, 7-17-00.

67-38.008 — Eligible Uses for the Loan.

(1) The proceeds of the Loan shall only be used for eligible tasks and activities specified in the approved Development Plan.

(2) The Corporation shall monitor all Predevelopment activity expenditures through the designated Technical Assistance Provider and shall deny disbursements which have not been approved by the Technical Assistance Provider prior to submission to Florida Housing.

(3) Eligible Predevelopment activities or expenses shall include, for example, the following:

- (a) Market and feasibility analysis;
- (b) Rezoning;
- (c) Title search;
- (d) Legal fees;
- (e) Boundary survey;
- (f) Administrative expenses;
- (g) Consultant fees;
- (h) Fees of the PLP Credit Underwriter (including Preliminary Underwriting Assessment fees);
- (i) Good faith or earnest money deposit related to the Development Site;
- (j) Commitment fees to secure construction/permanent financing;
- (k) Biological and environmental assessments;
- (l) Soil tests;
- (m) Appraisals;
- (n) Approved acquisition expenses in connection with the Development Site;
- (o) Marketing expenses;
- (p) Permitting/impact fees;
- (q) Architectural/engineering fees;
- (r) Fees in connection with the completion audit;
- (s) Site development activities approved by the Corporation;
- (t) Insurance fees; and
- (u) Connection Fees.

(4) If any of the requisite Predevelopment activities to be completed are pending or have not been satisfactorily completed, the Applicant shall be required to work with the Technical Assistance Provider to complete such Predevelopment activities in a timely and satisfactory manner.

(5) Applicants may request use of PLP for site acquisition by providing to Florida Housing:

- (a) detailed evidence of due diligence;
- (b) an explanation as to the necessity to acquire title;
- (c) a recommendation from the Technical Assistance Provider; and
- (d) subsequent to a Preliminary Underwriting Assessment, a recommendation from the Credit Underwriter that funds be disbursed for site acquisition.

Specific Authority 420.528 FS.

Law Implemented 420.526 , 420.527 , 420.528 FS.

History — New 3-23-93, Amended 1-16-96, 5-21-96, Formerly 9I-38.008, Amended 3-26-98, 7-17-00.

67-38.010 — Credit Underwriting Procedures.

(1) If an Applicant requests funds for site acquisition pursuant to Rule 67-38.009(5), Florida Housing will assign a Credit Underwriter to perform the Preliminary Underwriting Assessment.

(2) Applicant may request payment of Credit Underwriting fees for the Preliminary Underwriting Assessment from PLP funding pursuant to Rule Chapter 67-38.008 . Upon payment of the credit underwriting fees, the assigned Credit Underwriter shall perform the Preliminary Underwriting Assessment.

(3) The Credit Underwriter shall review the Application and Development Plan and advise the Corporation as to the appropriateness of plans and specifications and the budget for the Predevelopment tasks and activities related to the Development and make a determination as to the feasibility of the Development.

(4) An appraisal of the proposed Development Site to be acquired shall be required during the Preliminary Underwriting Assessment process. The Credit Underwriter shall choose an appraiser from the Credit Underwriter's approved list of appraisers and order the appraisal of the Development.

(5) The Credit Underwriter shall consider the appraisal of the Development and other market data to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(6) The Credit Underwriter may require additional information as is necessary to evaluate the Development Plan and make a determination as to the feasibility of the Development. If the Credit Underwriter requires additional clarifying materials in the course of the Preliminary Underwriting Assessment process, the Credit Underwriter shall request the materials from the Applicant and shall specify deadlines for submission of each such material. Failure to submit required information by the specified deadline, unless a written extension of time has been approved by the Corporation, shall result in the request for disbursement for site acquisition being denied.

(7) The Credit Underwriter shall complete and make a written draft Preliminary Underwriting Assessment report and recommendation to the Corporation within 45 calendar days from the date underwriting fees are paid. The Technical Assistance Provider and the Applicant shall review the draft report and provide

written comments to the Corporation and Credit Underwriter within 72 hours of receipt. After the 72-hour review period, the Corporation shall provide comments on the draft report and, as applicable, on the Applicant's and Technical Assistance Provider's comments, to the Credit Underwriter. The Credit Underwriter shall then review and consider the comments thereto and release the revised report to the Corporation, the Technical Assistance Provider, and the Applicant. Any additional comments from the Applicant and the Technical Assistance Provider shall be received by the Corporation and the Credit Underwriter within 72 hours of receipt of the revised report. Then, the Credit Underwriter will provide to the Corporation a final report which will address all comments made by the Applicant and the Technical Assistance Provider.

(8) It is the responsibility of the Applicant with the assistance of the Technical Assistance Provider to comply with each part of this Rule Chapter and to request in writing and provide evidence acceptable to the Corporation of extenuating circumstances for any requested waiver or extension. A failure to comply with any part of this Rule Chapter without the prior written permission of the Corporation will result in the disqualification of the Applicant and rescission of the Invitation to Participate.

Specific Authority 420.528 FS.

Law Implemented 420.528 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 91-38.010, Amended 3-26-98, 7-17-00.

67-38.011 — Fees.

(1) The following fees and charges pertaining to each Application shall be paid by the Applicant:

(a) Application Package fee of \$30.00.

(b) A nonrefundable application fee of \$100.00 per Application submitted.

(c) If PLP funds are to be used for site acquisition and Applicant proposes to take title to real property or in the event Applicant requests an extension of the loan maturity date, a credit underwriting fee pursuant to the contract between the Corporation and the Credit Underwriter shall be paid. If a Development involves scattered sites within a single market area, a single credit underwriting fee shall be charged.

(d) A commitment fee of \$600 shall be paid to the Corporation; and is due at the time Applicant executes the Invitation to Participate, and an additional \$600 commitment fee shall be paid within 15 days of written notice to Applicant that Development Plan has been approved. In the event the Development Plan does not receive approval, the \$600 fee paid at the time of acceptance of the Invitation to Participate shall be retained by the Corporation. In the event the Development Plan receives approval and Applicant is unable to proceed to completion of Predevelopment Loan Program activities or obtain permanent/construction financing, the \$1,200 commitment fee shall be retained by Florida Housing Finance Corporation. In the event the Development Plan is approved and Applicant successfully completes the Predevelopment Loan Program activities and obtains permanent/construction financing, the Applicant's Loan amount due upon closing of the construction/permanent financing will be reduced by \$1,200 reflecting the full commitment fee paid.

(e) Compliance Monitoring Fees shall be paid for those multifamily Developments which obtain construction/permanent financing from sources other than Florida Housing programs. The total monitoring fee to be paid by the Applicant for the Housing Credit Compliance Period must be submitted to the Corporation at the time of closing of the construction/permanent financing. The total monitoring fee is based upon a quarterly payment stream which shall be discounted at 2.75% for the full Compliance Period to provide a present value to be paid by the Applicant and shall be listed in the Application Package. For those Developments which obtain their construction/permanent financing from Florida Housing Programs, the Compliance Monitoring Fees shall be determined by the requirements of the particular program providing the financing in accordance with the rule chapter governing that particular program.

(f) All Credit Underwriting, Technical Advisory, Compliance Monitoring, extraordinary services and late fees shall be determined by contracts between the Corporation and the provider.

(2) Fees associated with the Loan are part of Development cost and may be included in the Development cost pro forma, if approved by the Technical Assistance Provider and Florida Housing.

(3) Failure to remit any of the required fees when due shall cause Florida Housing to rescind the Invitation to Participate or shall constitute a default under the documents evidencing or securing the Loan.

Specific Authority 420.528 FS.

Law Implemented 420.528 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 9I-38.011, Amended 3-26-98, 7-17-00.

67-38.012 — Sale, Transfer or Conveyance of Development.

(1) Any sale, conveyance, assignment, or other transfer of or the grant of a security interest in all or any part of the title to a multifamily Development or single family Development (considered all remaining parcels not previously sold or transferred to an eligible purchaser) shall be subject to the approval by the Board prior to the sale, transfer or conveyance. The Loan shall be assumable upon sale, transfer or refinancing of the Development if the following conditions are met:

(a) The proposed transferee is an eligible Applicant;

(b) The proposed transferee meets all conditions set forth in the original documents evidencing or securing the Loan and assumes all obligations and responsibilities thereunder, including the obligations and restrictions set forth in the Land Use Restriction Agreement; and

(c) The proposed transferee receives a favorable recommendation from the Credit Underwriter and approval from the Board.

(2) If the Development or the Development Site is sold and the buyer does not meet the criteria for assumption of the loan as set forth above, the Loan (principal and any accrued interest) shall be repaid from the proceeds of the sale.

(3) Written approval shall be obtained from the Corporation prior to any increase in per lot or per unit sales price. Approval shall be based on evidence from

the Applicant, acceptable to the Corporation, indicating an increase in the acquisition and development cost of the Development or an increase in debt service payments or property taxes;

(4) The Applicant shall keep accurate financial records on the Loan and such funds shall be audited as part of all other funds received or expended by the Applicant.

Specific Authority 420.528 FS.

Law Implemented 420.529 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 9I-38.012, Amended 3-26-98, 7-17-00.

67-38.014 — Disbursement Procedures.

The Loan shall be disbursed in partial payments by the Corporation to the Applicant or third party contractors subsequent to compliance with the following conditions for either home ownership or multifamily rental Developments:

(1) The Applicant shall deliver to the Corporation all documents required by the Corporation to evidence and secure the Loan and evidence compliance with all terms and conditions of the loan;

(2) Ten business days prior to each disbursement under the Loan, including any disbursements anticipated at closing, the Applicant shall deliver to the Corporation a written request approved by the Technical Assistance provider;

(3) Any disbursement request shall set forth the amount requested by the Applicant and shall be accompanied by invoices, cancelled checks or other such documentation to evidence the amount and kind of work or labor that has been or is to be performed; the value of the same; the identification of the portion of the Development Site on which the work has been performed; and that such contractors, sub-contractors, materialmen, laborers, professionals, consultants and all persons employed by the Applicant to work on the Development have been paid for work performed or will be paid. Lien waivers for work or labor which has been completed shall be submitted along with requests for disbursement. Lien waivers for work which will be paid from the requested disbursement shall be submitted prior to receiving additional disbursements;

(4) Disbursements for eligible activities, conducted prior to being awarded predevelopment financing, qualify for reimbursement from PLP funds provided that the eligible predevelopment activities were performed or completed no earlier than twelve months prior to the submission of the Application;

(5) Before requests for disbursements under the Loan are processed, the Applicant shall provide verification to the Technical Assistance Provider and the Corporation that the work for which payment is being requested has been performed satisfactorily and on schedule or that the expenses to be reimbursed have actually been incurred or will be incurred; and

(6) In the event that Applicant requests disbursement for site acquisition and proposes to take title to real property, Applicant must also provide:

- (a) A recommendation from the Technical Assistance Provider; and
- (b) Subsequent to a Preliminary Underwriting Assessment, a recommendation from the Credit Underwriter that funds be disbursed for site acquisition must also be provided;
- (c) A Mortgage on the Development Site as collateral for the Loan subject only to such encumbrances approved by the Corporation; however, if the Applicant is proffering a subordinate Mortgage or other collateral for the Loan, the same shall be subject to a favorable recommendation of the Credit Underwriter and the approval of the Corporation;
- (d) The Applicant shall provide an appraisal that has been completed by an appraiser approved by the Credit Underwriter.

Specific Authority 420.528 FS.

Law Implemented 420.528 FS.

History — New 3-23-93, Amended 1-16-96, 5-21-96, Formerly 91-38.014, Amended 3-26-98, 7-17-00.

67-38.0145 — Compliance and Monitoring Procedures.

(1) With respect to units within the Development that are occupied at the time of execution of the Invitation to Participate, all Development set-aside requirements must be met at that time.

(2) With respect to new construction or rehabilitation of rental units not occupied at time of execution of the Invitation to Participate, the Corporation must be notified prior to the leasing of any units in the Development.

(3) For Developments which obtain construction/permanent financing from Florida Housing programs, the compliance and monitoring requirements of the particular program or programs shall apply.

(4) For Developments which obtain construction/permanent financing from sources other than Florida Housing programs and no Florida Housing funds remain in the Development:

(a) Any duly authorized representative of the Corporation shall be permitted at any reasonable time to inspect and monitor the records and facilities of the Development for compliance with the following conditions:

1. For home ownership Developments: The Corporation and/or its representative shall perform an initial review to determine home buyer eligibility and verify permanent residency.

2. For multifamily rental Developments: The Corporation or its representative shall monitor tenant records and facilities for compliance during the Compliance Period with the following conditions:

a. All tenant records shall be maintained by the Applicant within 50 miles of the Development Site.

b. The Corporation or its representative shall conduct on-site Development inspections at least annually.



c. The Corporation must approve the Applicant's selection of a management company prior to the company assuming responsibility for the Development based upon the following criteria:

(i) Review of the company information including key management personnel, management experience and procedures;

(ii) Review of company forms such as application for apartment residence, income verification forms, lease, etc.;

(iii) Key management company representative attendance at a Corporation compliance workshop; and

(iv) A meeting between Corporation compliance staff and the key management company representative after the compliance workshop.

(b) The Applicant or an authorized representative, if any, shall attend a compliance training workshop or meet with a representative from the Corporation or the monitoring agent for a compliance training conference prior to initial leasing of any units.

(c) The Applicant shall maintain complete and accurate income records pertaining to each tenant occupying a set-aside unit. Records for each occupied set-aside unit shall contain at least the following documentation:

1. The resident's application which shall contain the name or names of each household member, employment and income information for each household member, and other information required by the Applicant;

2. A copy of the lease agreement listing the term of the tenancy and each tenant residing in the unit;

3. Verification of the income of each tenant as is acceptable to prove income under Section 8 of the U.S. Housing Act of 1937, as amended;

4. Information as to the assets owned by each tenant; and

5. Income Certification Form TIC-1 for each tenant. Form TIC-1, which is hereby incorporated by reference, can be obtained from the Corporation. For Developments participating in Section 8 and RD Programs, the HUD Forms 50058 or 50059 or RD (or FmHA) Form 1944-8 may be used in lieu of Form TIC-1 as long as proper documentation is maintained in the tenant files.

(d) With respect to rental Developments, program reports shall be submitted as follows:

1. Initial program reports for rehabilitation/acquisition Developments with units occupied at the time of the execution of the Invitation to Participate shall be submitted at the time of execution of the Invitation to Participate.

2. Initial program reports shall be submitted for Developments with no units occupied at the time of the closing of the Loan within 10 days following the end of the calendar quarter during which the leasing of any unit within the Development occurred.

3. Subsequent program reports shall be submitted each year during the Compliance Period and are due on the dates assigned by the Corporation according to an alphabetical breakdown by property.

Specific Authority 420.528 FS.

Law Implemented 420.528 FS.

History — New 1-16-96, Formerly 91-38.0145, Amended 3-26-98, 7-17-00.

67-38.015 — Disposition of Property Accruing to the Corporation.

(1) When title to property has been acquired by the Corporation under the Predevelopment Loan Program, the Corporation shall dispose of such property through a competitive bidding process established by the Corporation.

(2) The Corporation shall advertise the availability of such property by soliciting proposals from any organization, agency, local government or individual for the sale of the property for housing for the target population, or if the character of the property has changed so that housing is no longer of suitable use, then for any public purpose compatible to the area.

(3) In the event no offers for purchase of the property are received, the Corporation shall negotiate the sale or lease of such property with other Applicants. All such property must be used to provide housing with set-asides to persons within the target population. If the character of the property has changed and no such proposals are received for development of affordable housing, the Corporation shall sell or lease the property for other public purposes.

(4) Proposals shall be reviewed by Corporation staff. Approval of the Board of Directors shall be required prior to execution of the contract of sale or lease. The disposition price of any real property or portion thereof purchased or developed may not exceed the actual prorated land costs, development costs, accrued taxes, and interest, pursuant to Florida Statutes 420.521 — 420.529 .

(5) The purchase price or lease terms of such property shall be determined by the appraised value of the property, proposed use of the property, and the commitment to serve the target population. These characteristics shall be reviewed by the Corporation and submitted to the Board of Directors for final approval.

Specific Authority 420.528 FS.

Law Implemented 420.528 , 420.529 FS.

History — New 3-23-93, Amended 1-16-96, Formerly 91-38.015, Amended 3-26-98, 7-17-00.

67-38.017 — Application Procedures for Applicants Participating Under 1998 Cycles I and II.

(1) Participants funded under Cycle I or Cycle II of the 1998 Predevelopment Loan Program, pursuant to Chapter 420 of the Florida Statutes, that have not taken final draws on that funding, shall be allowed to apply for funding under this rule.

(2) To participate these Applicants shall complete and submit Form PLP 2000. Such Applicants shall be subject to all provisions of this rule except that such Applications shall not be subject to the Application fee or review by the Loan Committee but be deemed to have met threshold.

(3) Applicants awarded funding from Cycle I or II of the 1998 Predevelopment Loan Program that propose to develop Farmworker housing shall receive first priority for those proposed Developments. Priority shall then be given to Applicants proposing to develop other Farmworker housing, then to Cycle I and II Applicants proposing to develop other types of eligible housing, and finally to other Applicants proposing to develop other types of eligible housing.

(4) The Corporation shall issue an Invitation to Participate when the Application has been determined to be complete, provided previous Predevelopment Loan Program award is relinquished, and outstanding notes and mortgages are satisfied with funding provided under this rule.

Specific Authority 420.528 FS.

Law Implemented 420.527 , 420.528 FS.

History — New 7-17-00.