

NOTICE OF PROPOSED RULEMAKING
FLORIDA HOUSING FINANCE CORPORATION
CHAPTER 67-53
COMPLIANCE PROCEDURES

RULE NOS.	RULE TITLES
67-53.003	Compliance Procedures.
<u>67-53.0035</u>	<u>Florida Housing Finance Corporation</u>
67-53.004	Right to Inspect and Monitor <u>Elderly Housing Community Loan (EHCL) Funded Developments.</u>
67-53.006	Compliance and Monitoring Procedures <u>for the Pre-Development Loan Program (PLP).</u>
67-53.007	Compliance Procedures <u>for SAIL Loan/Hurricane Andrew Recovery and Rebuilding Program.</u>
67-53.008	Compliance and Reporting Requirements <u>for State Apartment Incentive Loan (SAIL) Program, HOME Investment Partnerships (HOME) Rental Program, Multifamily Mortgage Revenue Bond (MMRB) Program, Housing Credit (HC) Program, Rental Recovery Loan Program (RRLP), and Elderly Housing Community Loan Program (EHCL).</u>
67-53.009	Compliance and Monitoring <u>for Homeownership Assistance Program (HAP) and Homeownership Programs.</u>
67-53.010	Forms.

PURPOSE AND EFFECT: The purpose of this Rule is to establish the compliance procedures by which Florida Housing or any duly authorized representative of Florida Housing shall be permitted at any reasonable time to inspect and monitor developments and tenant records and facilities.

SUMMARY: Florida Housing recognizes a need for technical revisions and to require developers to provide Florida Housing with audited statements and a cash flow form so Florida Housing can monitor the credit quality of the portfolio and to assist Florida Housing in making policy decisions as the markets dictate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a

SPECIFIC AUTHORITY: 420.507(12), 420.508(3)(a) F.S.

LAW IMPLEMENTED: 420.507(4), (13), (14), 420.508, 420.509 F.S.

A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., April 20, 2009

PLACE: Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 6000, Tallahassee, Florida, 32301. The hearing will be accessible via phone at 1-888-808-6959, Conference Code #6884197

THE PERSON TO CONTACT REGARDING THE PROPOSED RULE IS:

Laura Cox, Director of Asset Management & Guarantee Program, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 6000, Tallahassee, Florida, 32301-1329, (850) 488-4197.

THE FULL TEXT OF THE PROPOSED RULE IS:

~~67-53.003 Compliance Procedures.~~

~~(1) Any duly authorized representative of Florida Housing shall be permitted at any reasonable time to inspect and monitor Development and tenant records and facilities. All tenant records shall be maintained by the owner of the Development within 50 miles of the Development site.~~

~~—— (2) Florida Housing or its representative shall conduct on-site Development inspections at least annually.~~

~~(3) Florida Housing must approve the selection or replacement of a management company prior to such company assuming responsibility for the Development, using the following criteria:~~

~~—— (a) Review of company information including key management personnel, management experience and procedures;~~

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

~~—— (c) Key management company representative attendance at a Florida Housing compliance workshop; and~~

~~—— (d) A meeting between Florida Housing compliance staff and the key management company representative.~~

~~—— (4) Florida Housing shall document approval of the management company to the owner of the Development after successful completion of items (3)(a)-(d).~~

~~—— (5) The owner of the Development 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 the following documentation:~~

~~—— (a) The tenant's application containing the name or names of each household member, employment and income information for each household member, and other information required by the owner of the Development;~~

~~—— (b) An executed lease agreement listing the term of the tenancy and all of the tenants residing in the unit;~~

~~(c) Verification of the income of each tenant as is acceptable to prove income under section 8 of the U.S. Housing Act of 1937, which is adopted and incorporated herein by reference, as in effect on the date of this rule chapter;~~

~~—— (d) Information as to the assets owned by each tenant; and~~

~~—— (e) Income Certification Form TIC-1 for each tenant.~~

~~(6) The Applicant shall submit Program Reports, pursuant to the following: The initial Program Report shall be submitted prior to the time of Loan closing if the Development is occupied, or by the 25th of the month following rental of the initial unit in the Development. Subsequent Program Reports shall be submitted each month and are due no later than the 25th of each month thereafter. The Program Reports shall be accompanied by the Recap of Tenant Income Certification Information, Form AR-1, and the certificate of continuing program compliance and copies of all Tenant Income Certifications executed since the last Program Report and shall be sent to Florida Housing, the Trustee and the monitoring agent.~~

~~—— (7) The Developer shall, at least monthly, submit to Florida Housing, the Trustee and the monitoring agent, a certificate of continuing program compliance stating the percentage of dwelling units that are:~~

~~—— (a) Occupied by Lower Income Residents.~~

~~————(b) Being held vacant for occupancy by Lower Income Residents.~~

~~————(c) Occupied by other persons.~~

~~————(8) Florida Housing shall monitor compliance of all terms and conditions of the Loan and in the Land Use Restriction Agreement, which Land Use Restriction Agreement shall be recorded in the public records of the county wherein the Development is located. The Land Use Restriction Agreement shall be recorded first. Violation of any term or condition of the documents evidencing or securing the Loan shall constitute a default during the term of the Loan. Florida Housing shall take legal action to effect compliance if a violation of any term or condition relative to the Set-Aside of units for Lower Income Residents is discovered during the course of compliance monitoring or by any other means.~~

~~————(9) Borrowers shall annually certify that the household gross income of each household occupying a unit set aside for Lower Income Residents meets income requirements specified in the Code. Should the annual recertification of such households result in noncompliance with income occupancy requirements, the next available unit must be rented to a qualifying household in order to ensure continuing compliance of the Development.~~

~~————(10) The compliance monitoring for MMRB will begin following loan closing or, if the Development is occupied, prior to loan closing.~~

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4), (13), (14), 420.508, 420.509 FS. History—New 1-7-98, Formerly 9I-21.016, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Formerly 67-21.016, Repealed _____.

67-53.0035 Florida Housing Finance Corporation

For the purposes of this Rule Chapter, the “Corporation” means the Florida Housing Finance Corporation as defined in Section 420.503(10), Fla. Stat.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law implemented 420.507(4), (13), (14), 420.508, 420.509 FS. New _____.

67-53.004 Right to Inspect and Monitor Elderly Housing Community Loan (EHCL) Funded Developments.

The Corporation Florida Housing or its agents shall have the right to inspect and monitor the records and facilities of all Elderly Housing Community Loan (EHCL), as established in Rule Chapter 67-32, F.A.C., funded dDevelopments. Inspections shall occur while the repairs or improvements are being made and may occur after completion of the repairs or improvements.

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History–New 10-2-89, Formerly 9I-32.010, Amended 11-9-98,1-2-00, Repromulgated 12-31-00, Amended 3-17-02, Repromulgated 5-5-03, Formerly 67-32.010. Amended _____.

67-53.006 Compliance and Monitoring Procedures for the Pre-Development Loan Program (PLP).

(1) Units within the dDevelopment that are occupied at the time of the Pre-Development Loan Program (“PLP”) Loan closing as defined in Rule Chapter 67-38, F.A.C., shall meet dDevelopment sSet-aAside requirements at that time.

(2) For new construction or rehabilitation of rental units not occupied at the time of PLP Loan closing, the Applicant shall notify the Corporation prior to the leasing of any units in the dDevelopment. The units shall be leased by income eligible tenants.

(3) For rental PLP dDevelopments which obtain subsequent construction or permanent financing from Corporation programs, the compliance and monitoring requirements of the program or programs under which funding is received shall apply.

(4) For rental PLP dDevelopments that obtain subsequent construction or permanent financing from sources other than Corporation programs and no Corporation funds remain in the dDevelopment:

(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 PLP dDevelopment for compliance with the following conditions;

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

2. For multifamily rental PLP dDevelopments: 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 PLP dDevelopment sSite.

b. The Corporation or its representative shall conduct on-site PLP dDevelopment 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 PLP dDevelopment 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 tenant'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 dDevelopments 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 PLP dDevelopments, program reports shall be submitted as follows:

1. Initial program reports for rehabilitation/acquisition PLP dDevelopments 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 dDevelopments with no units occupied at the time of the closing of the PLP Loan within 10 days following the end of the calendar quarter during which the leasing of any unit within the PLP dDevelopment occurred.

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

(5) For homeownership PLP dDevelopments, the initial sale of all units shall be to income eligible purchasers.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 1-16-96, Formerly 9I-38.0145, Amended 3-26-98, 7-17-00, 7-21-03, Formerly 67-38.0145, Amended _____.

~~67-53.007 Compliance Procedures~~

~~———(1) The Corporation or the servicer shall inspect and monitor the records and facilities all of the funded Projects. Such inspections may occur without notice at any reasonable time. The information shall be reported in the format and time specified in the Florida Housing Finance Corporation’s Compliance Manual which can be requested from the Corporation’s Compliance Supervisor. Failure to meet the requirements related to compliance shall constitute a default on the loan by the borrower.~~

~~———(2) At a minimum, the units specified in the minimum set aside requirement must be held for very low income persons or households for a period of time equal to the longest of the following:~~

~~———(a) The term of the SAIL/Hurricane Andrew Recovery and Rebuilding Program loan; or~~

~~———(b) 12 years; or~~

~~———(c) Such longer term agreed to by the Applicant.~~

Specific Authority 420.507 FS. Law Implemented 420.5087 FS., Chapter 93-186, Laws of Florida. History—New 1-25-94, Formerly 9I-43.011, 67-43.011, Repealed _____.

67-53.008 Compliance and Reporting Requirements for State Apartment Incentive Loan (SAIL) Program, HOME Investment Partnerships (HOME) Rental Program, Multifamily Mortgage Revenue Bond (MMRB) Program, Housing Credit

**(HC) Program, Rental Recovery Loan Program (RRLP), and Elderly Housing
Community Loan (EHCL) Program.**

(1) The Corporation shall monitor compliance of all terms and conditions of the Loans and of regulatory agreements, which regulatory agreements shall be recorded in the public records of the county wherein the development is located. Violation of any term or condition of the documents evidencing or securing the Loans shall constitute a default during the term of the Loans. The Corporation shall take legal action to effect compliance if a violation of any term or condition relative to the set-aside of units for qualified households is discovered during the course of compliance monitoring or by any other means. Any duly authorized representative of the Corporation shall be permitted at any time during normal business hours to inspect and monitor the construction or rehabilitation of any a dDevelopment that has received funding from the Corporation. Any duly authorized representative of the Corporation or the Treasury shall be permitted at any time during normal business hours to inspect and monitor dDevelopment and resident records and facilities. All resident records shall be maintained by the owner of the dDevelopment within 50 miles of the dDevelopment site.

(2) On-site inspections for Housing Credit (“HC”) dDevelopments, as defined in Rule Chapter 67-48, F.A.C:

(a) An authorized representative of the Corporation will, at the Applicant’s expense, conduct four on-site construction inspections during the construction or rehabilitation of a cCompetitive HC dDevelopment. Any required re-inspection due to a finding of non-compliance will be at the Applicant’s expense.

(b) An authorized representative of the Corporation will, at the Applicant's expense, conduct a minimum of one on-site construction inspection of a ~~n~~Non-~~c~~Competitive HC ~~d~~Development which has not received any other ~~Corporation~~ Florida ~~Housing~~ financing. Any required re-inspection due to a finding of non-compliance will be at the Applicant's expense.

(3) For programs other than EHCL, tThe Corporation or its representative shall conduct a management review and physical inspection of each on-site dDevelopment ~~inspections~~ at a minimum of every three years, with a typical frequency of annual reviews, to inspect and monitor development and resident records, units, and facilities.

(4) The Corporation must approve the selection or replacement of a management company prior to such company assuming responsibility for the ~~d~~Development, using the following criteria:

(a)-(d) No Change.

(5) The Corporation will document approval of the management company to the owner of the ~~d~~Development after successful completion of items (4)(a)-(d).

(6) The owner of the ~~d~~Development shall maintain complete and accurate income records pertaining to each resident occupying a Low-Income or Very Low-Income unit. Records for each occupied Low-Income or Very Low-Income unit shall contain the following documentation:

(a) The resident's rental application containing the name or names of each household member, employment and income information for each household member, and other information required by the owner of the ~~d~~Development;

(b) through (d) No change.

(e) ~~Income Certification Form~~ TIC-1 for each resident.

(7) The Applicant shall submit Program Reports pursuant to the following:

(a) For those developments receiving competitive HC, the initial HC PR-1 Program Report shall be prepared as of the last day of the calendar month during which execution of the Carryover (as defined in Rule Chapter 67-48, F.A.C.) allocation agreement occurred, if the development is occupied; or the rental of the initial unit in the development occurred, whichever is later submitted upon request of the compliance monitor or Florida Housing prior to the initial management review and physical inspection, but no later than 120 days following the leasing of any unit. For those developments receiving an allocation of non-competitive HC without any Corporation-issued loans, the initial HC PR-1 shall be prepared as of the last day of the calendar month during which final housing credit allocation occurred. Subsequent PR-1's Program Reports shall be prepared as of the last day of the calendar month submitted each year of the Housing Credit Compliance Period and shall be PR-1's are due no later than the 15th of each month throughout the regulatory period. Annually on dates assigned by the Corporation, ~~the~~ the monitoring agent's copy of each PR-1 Program Reports shall be accompanied by copies of TIC-1 Tenant Income Certifications copies for ten (10) percent of the executed TIC-1's that were effective during the reporting year months since the last Program Report for at least 10% of the Housing Credit Set Aside units in the Development (to be sent to the monitoring agent only); and The the AOC-1 Annual Owner Compliance Certification Form shall, to be signed by the owner of the HC dDevelopment, certifying that for the preceding 12 month period the HC dDevelopment met its Housing Credit sSet-a-Aside requirements (to be sent to the Corporation only).

Forms PR-1 and AOC-1 shall be provided by the Corporation and shall be submitted for all HC dDevelopments receiving Housing Credit Allocations since January 1, 1990~~87~~.

(b) The failure of the initial or any subsequent HC Program Reports to confirm compliance as required in paragraph (a) above, shall, upon written notice of such failure from the Corporation Florida Housing or its agent to the Applicant, require correction of the failure within 90 days of such written notice. This shall be deemed the “correction period.” During the correction period:

1. An Applicant may request a 60-day extension of the correction period by submitting a written request to the Corporation’s Compliance Monitoring Department Administrator. Such written request must be ~~r~~Received by the Corporation’s Compliance Monitoring Department Administrator at least 7 days prior to the expiration of the correction period.

2. The Corporation Florida Housing shall consider the nature of the failure of compliance and the Applicant’s past compliance history in determining whether to grant a 60-day extension of the correction period. The HC dDevelopment shall not be deemed non-compliant prior to the expiration of the correction period, unless otherwise required by 26 CFR 1.42-5. If the failure to comply is not, however, corrected within the correction period, or any extension of the correction period, such HC dDevelopment shall then be deemed to be in non-compliance and be reported to the Board.

(8) ~~(e) If the Development is occupied at loan closing,~~ For HOME Investment Partnerships (“HOME”) Rental Program, as defined in Rule Chapter 67-48, F.A.C., the The initial HOME PR-1 Program Report shall be prepared as of the last day of the calendar month during which the ~~submitted prior to the pre loan closing review and an~~

~~updated Program Report shall be submitted as of the date of loan closing occurred, or if the development is not occupied at loan closing; or the rental of the initial upon request of the compliance monitor or Florida Housing prior to the initial management review and physical inspection, but no later than 120 days following the leasing of any unit in the development occurred, whichever is later. Subsequent HOME PR-1's shall be prepared as of the last day of each calendar month. HOME PR-1's are due no later than the 15th of each month throughout the regulatory period. Annually, on dates assigned by the Corporation, the monitoring agent's copy of each PR-1 shall be accompanied by TIC-1 copies for ten (10) percent of the executed TIC-1's that were effective during the reporting year. HOME PR-1's HOME Program Reports shall confirm compliance as follows:~~

~~(a)1. If the dDevelopment is not occupied at loan closing, the initial HOME PR-1 Program Report and all subsequent HOME PR-1 Program Report shall confirm compliance with the set-aside requirements and other dDevelopment requirements, if any, as set forth in the LURA.~~

~~(b)2. If the dDevelopment is occupied at loan closing, compliance with the set-aside requirements and other dDevelopment requirements, if any, as set forth in the LURA, shall be confirmed by the first HOME PR-1 Program Report submitted 12 months following the expiration of the last then-existing tenant lease, without regard to any extension of the term of any then-existing tenant lease. The calculation of the above 12-month period shall begin with the date of the HOME loan closing.~~

~~3. Subsequent Program Reports shall be submitted each year of the period of affordability and the Compliance Period and shall be due no later than the dates assigned~~

by the Corporation. All subsequent HOME Program Reports shall confirm compliance with the set-aside requirements and other Development requirements, if any, as set forth in the LURA.

~~4. The Program Reports shall be accompanied by copies of Tenant Income Certifications executed since the last Program Report for at least 10% of the HOME-Assisted Units in the Development (to be sent to the monitoring agent only).~~

~~(c)5.~~ The failure of the initial or any subsequent HOME PR-1 Program Report to confirm compliance as required in this subsection, shall, upon written notice of such failure from the Corporation Florida Housing or its agent to the borrower, require correction of the failure within 90 days of such written notice. This shall be deemed the “correction period.” During the correction period:

~~1.a.~~ A borrower may request a 60-day extension of the correction period by submitting a written request to the Corporation’s Compliance Monitoring Department Administrator. Such written request must be ~~r~~Received by the Corporation’s Compliance Monitoring Department Administrator at least 7 days prior to the expiration of the correction period.

~~2.b.~~ The Corporation Florida Housing shall consider the nature of the failure of compliance and the borrower’s past compliance history in determining whether to grant a 60-day extension of the correction period. The ~~d~~Development shall not be deemed non-compliant prior to the expiration of the correction period. If the failure to comply is not, however, corrected within the correction period, or any extension of the correction period, such ~~d~~Development shall then be deemed to be in non-compliance and be reported to the Board.

(9) ~~(4)~~ For State Apartment Incentive Loan (“SAIL”) Program ~~If the~~
~~dDevelopment, as defined in Rule Chapter 67-48, F.A.C. and Rental Recovery Loan~~
~~Program (“RRLP”) as established in 67ER06-13 through 67ER06-24 and 67ER06-25~~
~~through 67ER06-41, F.A.C., is not occupied at loan closing, the initial SAIL or RRLP~~
~~PR-1 Program Report shall be prepared as of the last day of the calendar month during~~
~~which loan closing occurred, 15th of the month after the first unit is occupied and~~
~~submitted by the 25th of that month. If the SAIL or RRLP dDevelopment is occupied; or~~
~~the rental of the initial unit occurred, whichever is later at the time of loan closing, the~~
~~initial SAIL Program Report shall be submitted prior to the time of the pre loan closing~~
~~review and an updated Program Report shall be submitted as of the date of the loan~~
~~closing. Subsequent SAIL or RRLP PR-1’s shall be prepared as of the last day of each~~
~~calendar month. SAIL or RRLP PR-1’s are due no later than the 15th of each month~~
~~throughout the regulatory period. Annually, on dates assigned by the Corporation, the~~
~~monitoring agent’s copy of each SAIL or RRLP PR-1 shall be accompanied by TIC-1~~
~~copies for ten (10) percent of the executed TIC-1’s that were effective during the~~
~~reporting year. SAIL or RRLP PR-1’s Program Report shall confirm compliance as~~
follows:

(a) ~~1.~~ If the ~~dDevelopment~~ is not occupied at loan closing, the initial SAIL or
RRLP PR-1 Program Report and all subsequent SAIL or RRLP PR-1 Program Reports
shall confirm compliance with the set-aside requirements and other SAIL dDevelopment
requirements, if any, as set forth in the regulatory agreement LURA.

(b) ~~2.~~ If the SAIL or RRLP dDevelopment is occupied at the time of loan closing,
compliance with the set-aside requirements and other SAIL or RRLP dDevelopment

requirements, if any, as set forth in the regulatory agreement LURA, shall be confirmed by the first SAIL or RRLP PR-1 Program Report submitted 12 months following the expiration of the last then-existing tenant lease, without regard to any extension of the term of any then-existing tenant leases. The calculation of the above 12-month period shall begin with the date of the loan closing.

~~3. Subsequent Program Reports shall be prepared as of the 15th of each month and are due no later than the 25th of each month thereafter. All subsequent SAIL Program Reports shall confirm compliance with the set-aside requirements and other Development requirements, if any, as set forth in the LURA.~~

~~4. The Program Reports shall be accompanied by copies of all Tenant Income Certifications executed since the last Program Report for at least 10% of the Development's SAIL set-aside units (to be sent to the monitoring agent).~~

~~(c)5. The failure of the initial or any subsequent SAIL or RRLP PR-1's Program Reports to confirm compliance as required in this subsection, shall, upon written notice of such failure from the Corporation Florida Housing or its agent to the borrower, require correction of the failure within 90 days of such written notice. This shall be deemed the "correction period." During the correction period:~~

~~1.a. A borrower may request a 60-day extension of the correction period by submitting a written request to the Corporation's Compliance Monitoring Department Administrator. Such written request must be ~~r~~Received by the Corporation's Compliance Monitoring Department Administrator at least 7 days prior to the expiration of the correction period.~~

~~2.b.~~ The Corporation Florida Housing shall consider the nature of the failure of compliance and the borrower's past compliance history in determining whether to grant a 60-day extension of the correction period. The SAIL or RRLP dDevelopment shall not be deemed non-compliant prior to the expiration of the correction period. If the failure to comply is not, however, corrected within the correction period, or any extension of the correction period, such SAIL or RRLP dDevelopment shall then be deemed to be in non-compliance and be reported to the Board.

~~(10) (e)~~ For those developments receiving Multifamily Mortgage Revenue Bond Program ("MMRB"), as defined in Rule Chapter 67-21, F.A.C., funds from the Corporation, the initial MMRB PR-1 shall be prepared as of the last day of the calendar month during which bond closing occurred, if the MMRB development is occupied; or rental of the initial unit in the development occurred, whichever is later. Subsequent MMRB PR-1's shall be prepared as of the last day of each calendar month. MMRB PR-1's are due no later than the 15th of each month throughout the regulatory period. The monitoring agent's and Trustee's copy of each MMRB PR-1 shall be accompanied by the certificate of continuing program compliance. Annually, on dates assigned by Corporation, the monitoring agent's and Trustee's copy of the MMRB PR-1 shall be accompanied by TIC-1 copies for ten (10) percent of the executed TIC's that were effective during the reporting year.

(a) The failure of the initial or any subsequent MMRB PR-1 to confirm compliance as required in this subsection, shall, upon written notice of such failure from the Corporation or its agent to the borrower, require correction of the failure within 90

days of such written notice. This shall be deemed the “correction period.” During the correction period:

(b) A borrower may request a 60-day extension of the correction period by submitting a written request to the Corporation’s Compliance Monitoring Administrator. Such written request must be received by the Compliance Monitoring Administrator at least 7 days prior to the expiration of the correction period.

(c) The Corporation shall consider the nature of the failure of compliance and the borrower’s past compliance history in determining whether to grant a 60-day extension of the correction period. The development shall not be deemed non-compliant prior to the expiration of the correction period. If the failure to comply is not, however, corrected within the correction period, or any extension of the correction period, such development shall then be deemed to be in non-compliance and be reported to the Board.

(11)(8) HC dDevelopments shall will submit copies of each building’s completed IRS Low-Income Housing Credit Allocation Certification Form 8609, Rev. 12-2008 1-2000, Part II – First-Year Certification, and Schedule A, Annual Statement for Low-Income Housing Credit, Form 8609-A, Rev. 12-2008 1-2000, for the first year housing credits are claimed to the Compliance Section of Florida Housing Finance Corporation. These forms are adopted and incorporated herein by reference and are due at the same time they are filed with the Internal Revenue Service. Form 8609 and Schedule A (Form 8609-A) can be obtained from the Internal Revenue Service by calling 1(800)829-4477. Additionally, correspondence shall accompany these forms which indicates the first taxable year in which the Housing Credits were claimed, and the fiscal operating year for the property, and for each building that is (or will be) part of a multiple building project

attach a statement containing the name and address of the project and each building in the project.

~~(12)(9)~~ Compliance monitoring for each program will begin:

(a) For the SAIL Program, regardless of whether the ~~d~~Development also received an HC allocation, following the SAIL loan closing or, if the ~~d~~Development is occupied, prior to the SAIL loan closing.

(b) For the HOME Program, regardless of whether the ~~d~~Development also received an HC allocation, following the HOME loan closing or, if the ~~d~~Development is occupied, prior to the HOME loan closing.

(c) For ~~d~~Developments receiving an allocation of non-competitive HC without any Corporation FHFC-issued loans, following fFinal hHousing cCredit aAllocation.

(d) For ~~d~~Developments receiving cCompetitive HC without any Corporation FHFC-issued loans, following execution of the Carryover aAllocation aAgreement.

(e) For MMRB, regardless of whether the developments also received an HC allocation, following the bond closing or, if the development is occupied, prior to the bond closing.

~~(13)(10)~~ Household Income Certification

(a) SAIL, MMRB, RRLP and HC loan aApplicants shall initially annually certify that the household gross income, adjusted for family size, of each household occupying a unit set aside for Low-Income, Very Low-Income or Extremely Low-Income persons or households meets income requirements specified in Section 142(d)(3)(B) of the Internal Revenue Code, which is adopted and incorporated herein by reference. Copies may be obtained by contacting the Corporation's Compliance Monitoring Administrator. The

determination of whether the income of a household occupying a unit in a development exceeds the applicable income limit shall be made at least annually on the basis of the current income of the household, except for any year if during such year no residential unit in the development is occupied by a new household whose income exceeds the applicable income limit. A development which certifies 100% of its units as low-income shall perform one annual income recertification effective upon the first anniversary of any household's move-in or initial certification. No additional income recertification shall be required by the Corporation. However, annual determination of student status shall be required for households comprised entirely of students. Should the annual income recertification of such households result in noncompliance with income occupancy requirements, the next available unit must be rented to a household qualifying household under the provisions of Section 420.5087(2), F.S., in order to ensure continuing compliance of the dDevelopment.

(b) HOME applicants shall initially certify that the household gross income, adjusted for family size, of each household occupying a unit set aside for Low-Income, Very Low-Income or Extremely Low-Income persons or households meets income requirements specified in the Code of Federal Regulations, Title 24, Section 92.203, which is adopted and incorporated herein by reference. Copies may be obtained by contacting the Corporation's Compliance Monitoring Administrator. The determination of whether the income of a household occupying a unit in a development exceeds the applicable income limit shall be made at least annually on the basis of the current income of the household, except for any year if during such year no residential unit in the development is occupied by a new household whose income exceeds the applicable

income limit. A development which certifies 100% of its units as low-income shall perform one annual income recertification effective upon the first anniversary of any household's move-in or initial certification. Additional income recertification shall be performed as specified in the Code of Federal Regulations, Title 24, Section 92.252, which is adopted and incorporated herein by reference. Copies may be obtained by contacting the Corporation's Compliance Monitoring Administrator.

~~(11) The Corporation shall approve the SAIL loan Applicant's selection of a management company prior to such company assuming responsibility for the Development. The SAIL loan Applicant, its designated representative, or the managing agent of the Development must attend a Corporation-sponsored training workshop on certification and compliance procedures prior to the leasing of any units in the Development.~~

(14) Any Applicant obtaining funding from SAIL, RRLP, or supplemental loan, as established in Rule Chapter 67-48, F.A.C. ("Group 1 Applicants"), shall provide the Corporation with an audited financial statement and a fully completed and executed Financial Reporting Form (SR-1), Rev. 02/09, ("Form SR-1") annually by its submission deadline to the Corporation's servicer. The submission deadline for Group 1 Applicants is May 31st of each year. A late fee of \$500 will be assessed by the Corporation to any Group 1 Applicant for failure to submit these documents by the submission deadline of each year. Group 1 Applicants shall complete all Parts (Parts 1-5) of Form SR-1 prior to its submission to the Corporation's servicer.

(15) Any Applicant obtaining funding from HOME, MMRB, HC or EHCL ("Group 2 Applicants") shall provide the Corporation with an audited financial statement

and a fully completed and executed Form SR-1 annually by its submission deadline. The submission deadline for Group 2 Applicants is 120 days following their fiscal year end and shall be submitted to financial.reporting@floridahousing.org. A late fee of \$250 will be assessed by the Corporation to any Group 2 Applicant for failure to submit these documents by the submission deadline of each year. Group 2 Applicants shall complete only Parts 1, 2, and 5 of Form SR-1 prior to its submission.

(16) The initial submission of the audited financial statement and a fully completed and executed Form SR-1 will be due for all Applicants following the fiscal year which the first unit is occupied. For both Group 1 and Group 2 Applicants, the Submission Documents shall include the Form SR-1 in its electronic form as a Microsoft Excel spreadsheet. The audited financial statements are to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the twelve (12) months ended December 31st and shall include:

- (a) Comparative Balance Sheet with prior year and current year balances;
- (b) Statement of revenue and expenses;
- (c) Statement of changes in fund balances or equity;
- (d) Statement of cash flows; and
- (b) Notes.

The Applicant shall furnish to the Corporation or its servicer, unaudited statements, certified by the Applicant's principal financial or accounting officer, covering such financial matters as the Corporation or its servicer may reasonably request, including monthly statements with respect to the development.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS.

History—New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.006, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, Formerly 67-48.00, Amended 1-17-05, Amended_____.

67-53.009 Compliance and Monitoring for Homeownership Assistance Program (HAP) and Homeownership Programs.

For those developments who received funding from the Corporation's Homeownership Assistance Program ("HAP"), as established by Rule Chapter 67-45, F.A.C., and Homeownership Programs, as established by Rule Chapter 67-50, F.A.C.:

(1) The Servicer shall inspect and monitor the development's construction site and records, as necessary, with inspections occurring during regular business hours.

(2) The Servicer shall monitor the sale of houses and determine homebuyer eligibility at initial purchase. Failure to comply with the agreed upon set-aside requirements shall result in a retroactive interest rate adjustment from the HAP or HOME Construction Loan interest rate to the current market rate.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New 9-5-02, Formerly 67-50.100, Amended_____.

67-53.010 Forms.

The following forms are hereby incorporated by reference. Copies are available on the Corporation's Website at <http://www.floridahousing.org/Home/PropertyOwnersManagers/Forms> or may be obtained by contacting the Compliance Department, Florida Housing Finance Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301-1329:

AOC-1 – Annual Owner Compliance Certification Form

PR-1 – Program Report

TIC-1 – Tenant Income Certification

HUD Forms 50058 or 50059 or RD (or FmHA) Form 1944-8

Form SR-1 – Financial Reporting Form may be obtained from the Credit

Underwriter acting as the assigned servicer or on the Corporation's Website at

<http://www.floridahousing.org/Home/PropertyOwnersManagers/Forms>.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.509, 420.5099. 420.524, 420.9072 FS. History–New 1-17-05, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Laura Cox, Director of Asset Management & Guarantee Program, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 6000, Tallahassee, Florida, 32301-1329, (850) 488-4197.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Oellerich, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850) 488-4197.

DATE PROPOSED RULE CHAPTER APPROVED BY AGENCY HEAD: March 13, 2009.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

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