

**Florida Housing Finance Corporation
Rule Development Workshop – Rule Ch. 67-53
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 6000
Tallahassee, Fl. 32301
July 15, 2014
Agenda**

**CHAPTER 67-53
REGULATORY PERIOD COMPLIANCE PROCEDURES**

Definitions.

1. “Compliance Management Company” shall mean entity that undertakes actions on behalf of owner, pursuant to an agreement, in exchange for a fee, commission, compensation, or other valuable consideration, to ensure owner is in compliance with the regulatory agreement.
2. “Management Company” shall mean entity selected by the owner, to undertake Property Management Company and Compliance Management Company actions on behalf of owner, which was approved by Florida Housing prior to commencement of work.
3. “Property Management Company” shall mean entity that undertakes actions on behalf of owner, pursuant to an agreement, in exchange for a fee, commission, compensation, or other valuable consideration, in the marketing; leasing; renting; collecting rent; the physical, administrative, or financial maintenance; and overall management of real property; or supervision of such actions to ensure owner’s compliance with the regulatory agreement.
4. “Financial Reports” means an audited financial statement prepared in accordance with accounting principles and auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended and that includes a comparative balance sheet with prior year and current year balances, a statement of revenue and expenses, a statement of changes in fund balances or equity, a statement of cash flows, and notes to financial statements; a fully completed and executed Financial Reporting Form (SR-1), available on the Corporation’s Website; and Owner certification as to the accuracy of the financial statements referenced above.

Noncompliance for all programs

1. An Owner, or any principal, affiliate or financial beneficiary of an Owner, with a Development funded by the Corporation that is in noncompliance with federal or state regulatory agreements or applicable loan documents, may be prohibited by the Board of Directors from new participation in any of the Corporation’s programs until such time as the noncompliance has been corrected.
2. The Corporation or its Monitor will provide written notice to the Owner of noncompliance. Correspondence sent to the email or physical address shown on the Development Owner Management Contact (DOMC) Form, that is not returned, will be deemed delivered to the Owner. The Corporation will rely solely on the information supplied by the Owner to meet this requirement. The owner will have a correction period of 90 days from the date of the notice to the Owner, to provide documentation to the Monitor that the Development was never in noncompliance or that the noncompliance has been corrected. The Corporation may extend the correction period only if there is good cause and the Owner submits the written extension request to the Monitor at least 7 days prior to the expiration of the initial ninety (90) day correction period. The Owner will not be reported as noncompliant to the Board or Treasury until after the end of the correction period.

Noncompliance – HC

1. **For HC only**, corrected and uncorrected noncompliance with Section 42 of the I.R.C., identified by the Corporation, shall be reported during the HC Compliance Period as required to the Internal Revenue Service (IRS) using IRS Form 8823. For TCEP only, uncorrected noncompliance, identified by the Corporation, shall be reported during the HC Compliance Period to Treasury on the Annual Report of Compliance. For HC, TCAP & TCEP, uncorrected noncompliance with Section 42 of the I.R.C. and with regulatory agreements, identified by the Corporation, shall be reported during the Regulatory Period on the Noncompliance Report prepared for use by the Board and posted on the website.

Owner Responsibilities.

1. The Owner is responsible for compliance with state and federal regulations and regulatory agreements.
2. The Owner is responsible for providing the Corporation with current Owner and Management Company contact information which includes the names of the owners with signatory authority and their positions, physical and electronic address(es), and phone number(s). It is the Owner's sole responsibility to ensure the information the Corporation has is current, accurate and complete. The Corporation will rely solely on the information supplied by the Owner on the Development Owner Management Contact (DOMC) Form available on the Corporation's website.

Management Company Approval.

(1) The owner must request the Corporation's approval of the Management Company they have selected prior to such company assuming responsibility for the development.

(a) In the event that the owner has selected a Management Company that is responsible for both property management and compliance management, the Corporation's asset management staff will consider the following in the approval process:

- i. Review of documentation that provides evidence that entity is properly licensed to manage property if so required by Florida Real Estate Commission;
- ii. Review of company information that includes key management personnel, property management experience, affordable housing compliance experience, management plan and procedures, and experience performing operation and management functions specific to the needs of the intended residents as specified in an applicable competitive solicitation;
- iii. Review of company forms that includes tenant application; income verification forms, lease, and other forms required to be executed by tenant;
- iv. Meeting between Corporation asset management staff and key management company representative;
- v. Certificate evidencing attendance of the Corporation's compliance workshop by key management company personnel.

(b) In the event that the owner has selected both a Property Management Company and a Compliance Management Company, the Corporation's asset management staff will consider the following in addition to (1) a. i – v above in the approval process:

- i. Certificate evidencing attendance of the Corporation's compliance workshop by key Property Management Company personnel;
- ii. Certificate evidencing attendance of the Corporation's compliance workshop by key Compliance Management Company personnel;

(c) In the event that the owner has selected a Management Company that is currently managing property in the Corporation's portfolio, the Corporation's asset management staff will consider the following in the approval process:

- i. Review of documentation that provides evidence that entity is properly licensed to manage property if so required by Florida Real Estate Commission;
 - ii. Certificate evidencing attendance of compliance training by key Management Company personnel that is no older than 36 months from the date of owner's request.
- (2) If the owner's request is approved, the owner will be notified in writing.

Exempt Units

1. The Owner of a Development with a 100% set-aside requirement may request Corporation approval to exempt units used by the Development's resident manager, maintenance personnel or a full-time security officer from the certification requirements.

Record Keeping Requirements.

1. No matter the location of the file review, the owner is responsible for providing all required tenant files and records at the time of the management review.

Reporting Requirements SAIL, MMRB, HC, HOME, RRLP

1. Monthly, during the Regulatory Period, the Owner shall submit Program Reports for each Calendar Month, **to the Corporation** no later than the 15th of each month following the last calendar day of the preceding month. The first Calendar Month for which a Program Report shall be submitted for occupied Developments is the Calendar Month during which the loan closing was executed. The first Calendar Month for which a Program Report shall be submitted for unoccupied Developments is the Calendar Month during which the initial unit was rented.
2. Annually, during the Regulatory Period, within 151 Calendar Days following the Owner's fiscal year end, the Owner with Developments that received SAIL, RRLP and HOME with MMRB funding shall provide Financial Reports to the **servicer**. The first fiscal year for which Financial Reports are required for Developments that are not occupied will be the fiscal year within which the first unit is occupied. The first fiscal year for which Financial Reports are required for Developments that contain occupied units at the time of acquisition will be the fiscal year within which the 12 month anniversary of the SAIL loan closing occurred. **A late fee of \$500 will be assessed by the Corporation for failure to submit the above documents by the stated deadline.**
3. Annually, during the Regulatory Period, within 151 Calendar Days following the Owner's fiscal year end, the Owner with Developments that received HOME without MMRB, HC and MMRB funding shall provide Financial Reports to the **Corporation**. The first fiscal year for which Financial Reports are required for Developments that are not occupied will be the fiscal year within which the first unit is occupied. The first fiscal year for which Financial Reports are required for Developments that contain occupied units at the time of acquisition will be the fiscal year within which the 12 month anniversary of the SAIL loan closing occurred. **A late fee of \$250 will be assessed by the Corporation for failure to submit the above documents by the stated deadline.**
4. Annually, beginning in the year after the year of the closing, throughout the Regulatory Period, the Owner shall complete, certify as correct, execute and submit the Development Owner & Management Contact (DOMC) form to the Corporation by July 31st. The initial submission shall occur at loan closing. **HC Only:** The first DOMC shall be submitted the first year following the year of the submission of the final AOC.

5. **HC Only** - The Owner must make a one time submission to the Monitor of the Owner-completed and executed first year certification made using IRS Form 8609 Part II which was issued by the Corporation to the Owner, within 75 Calendar Days of the last day of the first year of the credit period elected by the Owner.

Affirmative Fair Housing Marketing Plans (AFHMP)

1. Owners of Developments with five (5) or more HOME assisted units must comply with 24 CFR 92.351 – Affirmative Marketing. Owners funded through the Corporation’s HOME program shall submit their AFHMP to the Corporation, as the participating jurisdiction, on HUD Form 935.2A every five (5) years. The initial AFHMP shall be submitted no later than ninety (90) days prior to the initiation of rental marketing activities.

HC only - Utility Allowance.

1. The Corporation will monitor to determine if Developments comply with published rent limits which include an allowance for tenant paid utilities for HC, TCAP and TCEP buildings and that the method selected for estimating the utility allowances complies 26 CFR §1.42-10. Owners who select the Energy Consumption Model method as allowed by 26 CFR §1.42-10(b)(4)(ii)(E), must use a licensed engineer or Qualified Professional that has been approved by Florida Housing and is included on the approved provider list on the Website.

EHCL - Management Reviews and Physical Inspections.

1. The Corporation or its duly authorized representative shall monitor compliance with the regulatory agreements throughout the Regulatory Period for the EHCL Program, as defined in Rule Chapter 67-48, F.A.C., through Owner certification or on-site inspections conducted at a minimum of every three (3) years, with a typical frequency of annually throughout the Regulatory Period. 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.

EHCL Reporting Requirements.

1. Annually, the Owner shall certify and provide documentation to the Corporation that the Development is in compliance with the regulatory agreements.