

## Notice of Proposed Rule

**FLORIDA HOUSING FINANCE CORPORATION**

## RULE NOS.:      RULE TITLES:

67-37.002	Definitions.
67-37.005	Local Housing Assistance Plans.
67-37.006	Review of Local Housing Assistance Plans and Amendments.
67-37.007	Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.
67-37.008	Local Housing Assistance Trust Fund.
67-37.010	Local Affordable Housing Advisory Committees and Incentive Strategies.
67-37.011	Interlocal Entities.
67-37.019	Compliance Procedures

**PURPOSE AND EFFECT:** The purpose of this Rule Chapter is to establish the procedures by which the Florida Housing Finance Corporation administers the State Housing Initiatives Partnership (SHIP) Program, which provides funds to local governments as an incentive to create partnerships to produce and preserve affordable housing. Revisions to the rule chapter are required to implement statutory, technical, and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

**SUMMARY:** Over the past few years, the Legislature has made a number of changes to the SHIP program through statutory revision. The changes include requirements to expend at least 20% of funds on Households with Special Needs, expanded use of funds for rental assistance, changes to compliance requirements for rental developments, and changes in the requirements related to the composition of the local affordable housing advisory committee. These changes, along with revisions to clarify program requirements and to rectify incorrect statutory cross references created by the Legislative changes, must be incorporated into the program rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that these proposed rule changes will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the information expressly relied upon and described herein. The rule is not likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. The rule is not likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. In addition, the rule is not likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 420.9072, FS

**LAW IMPLEMENTED:** 420.9071, 420.9072, 420.9075, 420.9076, 420.9078, FS

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

**DATE AND TIME:** TBD

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6<sup>th</sup> Floor Seltzer Room, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Dearduff, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 500, Tallahassee, FL 32301, email Robert.Dearduff@floridahousing.org.

THE FULL TEXT OF THE PROPOSED RULE IS:

**67-37.002 Definitions.**

As used in this rule chapter, the following definitions shall apply:

(1) through (6) No change.

(7) “Default” means the failure to make required payments on a financial loan secured by a ~~first~~ mortgage that ~~which~~ may lead to foreclosure and loss of property ownership.

(8) “Deferred Payment Loan” means ~~F~~unds provided to a borrower under terms that calls for repayment to be delayed for a certain length of time, until certain circumstances change, or a certain threshold is met.

(9) through (10) No change.

(11) “Essential Service Personnel” means, ~~pursuant to Chapter 2006-69, Laws of Florida,~~ persons in need of affordable housing who are employed in occupations or professions in which they are considered essential service personnel, as defined by each county and eligible municipality within its respective local housing assistance plan pursuant to Section 420.9075(3)(a), F.S.

(12) “Expended” ~~or “Spent”~~ means the affordable housing activity is complete and funds deposited to the local affordable housing trust fund have been transferred from the local housing assistance trust fund account to pay for the cost of the activity.

(13) through (14) No change.

(15) “Forgivable Loan” means a loan with no repayment obligation if ~~program~~ requirements of the loan are met for a specified period of time.

(16) No change.

(17) “Home Ownership Activities” means the use of the local affordable housing trust fund moneys for the purpose of providing owner-occupied housing. Such uses include construction, rehabilitation, purchase, and lease-purchase financing where the primary purpose is the eventual purchase of the housing by the occupant within twenty-four months from initial execution of a lease agreement or within twenty-four (24) months of the applicable fiscal year, whichever occurs first, ~~to meet the requirement of subsection (8).~~

(18) “Interlocal Entity” means an entity created pursuant to the provisions of Chapter 163, Part I, F.S., for the purpose of establishing a joint local housing assistance plan between two or more SHIP eligible local governments pursuant to the provisions of Section 420.9072(5), F.S.

(19) through (20) No change.

(21) “Persons ~~With Who Have~~ Special Housing Needs” means Persons with Special Needs as defined in Section 420.0004(13), F.S. ~~individuals who have incomes not exceeding moderate income and, because of particular social, economic, or health related circumstances, have greater difficulty acquiring or maintaining affordable housing. Such persons include: those who have encountered resistance to their residing in particular communities; suffered increased housing costs resulting from their unique needs and high risk of institutionalization; persons with developmental disabilities; persons with mental illnesses or chemical dependency; persons with Acquired Immune Deficiency Syndrome (“AIDS”) and Human Immunodeficiency Virus (“HIV”) disease; runaways and abandoned youth; public assistance recipients; migrant and seasonal farm workers; refugees and entrants; the elderly; and disabled adults.~~

(22) No change.

(23) “Program Income” means Program Income as defined in Section 420.9071(24), F.S.

(24) “Project Delivery Costs” means those costs related to the delivery of housing related services to an eligible applicant that are not included as part of Administrative Expenditures.

(23) through (26) renumbered as (25) through (28). No change.

(29) “Sponsor” means eligible sponsor as defined in 420.9071 (11)., F.S.

(27) renumbered as (30). No change.

(31)(28) “Sub Recipient” means a person or ~~non-state~~ organization contracted by a SHIP eligible local government that is compensated with SHIP funds to provide administration of any portion of the SHIP program.

(29) renumbered as (32). No change.

*Rulemaking Authority 420.9072(9) FS., Ch. 2000-69, Laws of Florida. Law Implemented 420.9072 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.002, Amended 12-26-99, 9-22-03, 1-30-05, 11-5-06, 2-24-08, 11-22-09, \_\_\_\_\_.*

Substantial rewording of Rule 67-37.005 follows. See Florida Administrative Code for present text.

### **67-37.005 Local Housing Assistance Plans (LHAP).**

#### (1) General Requirements:

(a) To be eligible for SHIP funding for a state fiscal year, a county or eligible municipality shall submit and receive approval of its local housing assistance plan and amendments thereto as provided in Rule 67-37.006, F.A.C. Plans must be submitted to the Corporation by May 2 preceding the end of the fiscal year in which the current plan expires. New Plans must be submitted using the LHAP Template 2016-001, effective October 1, 2016, including all required exhibits, which is adopted and incorporated herein by reference. A copy of the LHAP Template 2016-001 and required exhibits may be obtained at <http://www.floridahousing.org> or by contacting the Corporation. In the case of new eligible municipalities, plans must be submitted to the Corporation by May 2 of the state fiscal year prior to the state fiscal year they seek to become eligible for funding. No SHIP local housing distribution funds shall be distributed in a fiscal year to a county or eligible municipality unless and until an approved LHAP is in place with respect to applicable fiscal year.

(b) The effective period of an LHAP may be up to three state fiscal years. Counties or eligible municipalities that receive LHAP approval for more than one fiscal year shall not be required to resubmit a new plan until May 2 of the year in which the approved plan expires.

(c) A copy of the local housing assistance plan shall be submitted to the Corporation, via electronic submission. The local housing assistance plan’s certification and resolution, which are part of LHAP Template 2016-001, shall be submitted and shall bear the original signature of the authorized official which includes: Mayor, Commissioner, County Manager or City Manager or the authorized official’s designee and a certification that the document being submitted is the county’s, eligible municipality’s or interlocal entity’s local housing assistance plan and that all provisions of the plan conform to the requirements of Section 420.9072, F.S., et seq., and Rule Chapter 67-37, F.A.C.

(d) Within two weeks after receipt of final approval of the LHAP from the Corporation, the local government shall provide, via electronic submission, a complete clean copy (no strike through or underline) including all required exhibits to the Corporation.

(e) The Corporation shall be notified by a county or eligible municipality of any recently hired staff or any new entity employed or contracted to administer any portion of the SHIP program having no previous experience with the SHIP program. Those staff or entity shall be required to receive technical assistance and training through the Affordable Housing Catalyst Program.

(f) The funds deposited to the local housing assistance trust fund must be spent within twenty-four months from the end of the applicable State fiscal year. Exceptions to this time frame must be approved by the Corporation SHIP Program Administrator on a case-by-case basis. Exceptions will only be granted for good cause. Examples of good cause are natural disasters, requirements of other State agencies, adverse market conditions, and unavoidable

development delays. Adequate explanation of the reasons for the requested extension as well as a timeline for completing the expenditure of funds must be submitted to the Corporation before an extension will be approved, e.g., project status, work plan and completion schedule, commitment of funds, etc. The Corporation may require a local government requesting an expenditure extension to receive technical assistance through the Catalyst program to evaluate the need for an extension.

(g) Each LHAP must include a disaster strategy describing activities to be undertaken in the event of an emergency or disaster that has been declared by executive order. A copy of a sample Disaster Strategy is available on the Corporation's website at <http://www.floridahousing.org> or by contacting the Corporation. Local governments may use unencumbered SHIP funds to carry out activities of disaster relief. Recipients of SHIP funds under a local government's disaster strategy shall be required to verify income using certifications, pay check stubs or other forms of proof. Documentation required for SHIP income qualification may be waived if unavailable. The county or eligible municipality shall make every effort reasonable to insure that the recipients of SHIP funds are income qualified.

(2) A county or eligible municipality is permitted to:

(a) Develop a strategy within its local housing assistance plan that emphasizes the recruitment and retention of Essential Service Personnel pursuant to Section 420.9075(3)(b), F.S. If a county or eligible municipality creates a strategy as referenced above before the current plan expires, an amendment shall be submitted to the Corporation in track changes format as provided in subsection 67-37.005(17), F.A.C.

(b) Use SHIP funds for persons or families whose total annual household income does not exceed one hundred forty percent of the area median income, adjusted for family size; this use of funds does not relieve the local government from meeting the requirements of Section 420.9075(5)(e)2., F.S.

(c) Develop a strategy within its local housing assistance plan that addresses the needs of persons who are deprived of affordable housing due to the closure of a mobile home park or the conversion of affordable rental units to condominiums pursuant to Section 420.9075(3)(c), F.S.

(d) Develop a strategy within its local housing assistance plan for the Preservation of assisted rental housing.

(3) Notice of Funding Availability

(a) Each county or eligible municipality shall advertise a notice of funding availability of SHIP funds at least 30 days before the beginning of the application period in a newspaper of general circulation and periodicals serving ethnically and racially diverse populations unless a waiting list of applicants exists that will exhaust all allocated funding.

1. The advertisement shall:

a. Identify the amount of the distribution projected to be received from the state for the fiscal year;

b. List the beginning and end date of the application period;

c. Provide the name of the local plan contact person and other pertinent information including where applicants may apply for assistance.

2. The advertisement may also include information that the local governments deem necessary such as:

1. An estimated amount of SHIP local housing distribution per strategy;

a. Income set asides for each strategy along with applicable income limits;

b. A description of the selection criteria for each strategy;

c. The maximum housing value limitation for each strategy;

(4) Each local housing assistance plan shall be submitted on the LHAP template and include:

(a) A description of the local housing strategies and incentive strategies;

(b) A statement that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of an amount representing the percentage of the area's median Annual Gross Income for the household as indicated in Section 420.9071(19), (20) or (28), F.S. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing. Housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the

household can afford mortgage payments in excess of the 30 percent benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size established by the Corporation;

(c) A description of the extent to which a strategy is implemented by combining resources through a partnership in order to leverage the cost of housing;

(d) A description of the support services that will be made available to the residents of the housing; and

(e) A description of the initiatives that will be used to conduct outreach and to attract applicants for assistance;

(f) A statement that strategies further the housing element, goals, policies, and objectives of the local government's comprehensive plan.

(g) A policy stating that once a waiting list has been exhausted and funds remain unencumbered, the local government will advertise as instructed in Section 420.9075(4)(b), F.S.

(h) A statement that the staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility throughout the 15 year compliance period as described at subsection 67-37.007(15), F.A.C.

(i) A definition of essential service personnel for the county or eligible municipality. Such definition may include teachers and educators; other school district, community college, and university employees; police and fire personnel; health care personnel; skilled building trades personnel; and other specifically defined job categories as required by Section 420.9075(3)(a), F.S.

(j) A description of initiatives identifying current and emerging green building and design techniques and explain how these techniques are to be integrated into its housing strategies both for sustainability and promote greater affordability pursuant to Section 420.9075(3)(d), F.S.

(k) A complete description of all strategies and activities to be undertaken as described in this section.

(l) A description of the qualification system and selection criteria for applications for awards to eligible sponsors, which includes a description that demonstrates how eligible sponsors that employed personnel from the Welfare Transition Program will be given preference in the selection process.

(m) A description of the criteria for selection of eligible persons.

(n) Maximum Award amounts for each strategy listed in the local housing assistance plan.

(o) A timeline for the expenditure of SHIP local housing distribution funds in sufficient detail to allow for a comparison of such plan with actual expenditures. The information submitted must be presented separately for each State fiscal year;

(p) A detailed line-item budget of proposed Administrative Expenditures. These must be presented on an annual basis for each State fiscal year submitted;

(q) A copy of the ordinance and its amendments, if the original ordinance has been amended from its original submission, as required by Section 420.9072(2)(b), F.S.; and

(r) A housing delivery goals chart hereby incorporated by reference as an exhibit to the LHAP template for each fiscal year, which includes the following information for each strategy:

1. The proposed dollar amount of the local housing distribution to be used for each strategy, stated for each State fiscal year in a multi-year plan;

2. The estimated number of households proposed to be served for each strategy and income category;

3. The maximum amount of funding per unit for each strategy, and the estimated amount of funding for new construction, rehabilitation or non-construction activities. On a multi-year plan, this information must be stated separately for each State fiscal year;

4. The maximum sales price of new and existing units. For community land trust purposes the value of the land is not included in the purchase price.

(5) Each LHAP shall contain a certification form, which is included as an exhibit to LHAP Template 2016-001, which requires the county or eligible municipality to certify to all statements on said form, including that:

(a) There is an established procedure for the tracking and expenditure of program income and Recaptured Funds from loan repayments, reimbursements, Foreclosures or other repayments, and interest earnings on the local housing distribution funds.

(b) There is a plan to Encumber the local housing distribution funds deposited into the local housing assistance trust fund for each State fiscal year by June 30 one year following the end of the applicable State fiscal year;

(c) There is a plan for the local housing distribution deposited into the local housing assistance trust fund to be Expended for eligible persons or eligible sponsor within 24 months of the end of the applicable State fiscal year. Expended is defined as:

1. The project is completed as evidenced by documentation of final payment to the contractor and release of all lien waivers;

2. Issuance of the certificate of occupancy by the local building department in the case of a new home or proof of the final building inspection for housing rehabilitation, and occupancy by an eligible person or eligible household;:

3. For assistance to tenants of rental housing or foreclosure assistance payments, funds are Expended upon transfer of funds to a tenant, resident, lending insitution, utility provider or landlord; and

4. In the case of a loan guarantee strategy, the deposits to the local housing assistance trust fund will be considered expended when they are deposited from the local housing assistance trust fund into the guarantee fund.

*Rulemaking Authority 420.9072(9) FS., Ch. 2006-69, Laws of Florida. Law Implemented 420.9071, 420.9072(2), 420.9075 FS. History--New 11-26-92, Amended 5-2-93, 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.005, Amended 12-26-99, 9-22-03, 1-30-05, 11-5-06, 2-24-08, 11-22-09,\_\_\_\_\_.*

#### **67-37.006 Review of Local Housing Assistance Plans and Amendments.**

(1) Local housing assistance plans and amendments shall be reviewed and approved by a Review Committee of Corporation employees appointed by the Executive Director. ~~In the event that a quorum is not convened for the review of a plan or an amendment to a plan, action can be taken with a simple majority vote of those members present for the review.~~

(2) Any county or eligible municipality desiring review of a new any plan or plan amendment prior to adoption by the local government body may shall submit it for review to the Corporation Review Committee. The plan or amendment will be reviewed by the Corporation Review Committee, which will recommend it for conditional approval pending local approval and submission of all required documents or identify inconsistencies with the requirements of the SHIP program Rule Chapter 67-37, F.A.C., and Sections 420.907-.9079, F.S., within 45 30 days after receipt.

(3) Amendments to an approved local housing assistance plan must be adopted by resolution and the county or eligible municipality must provide a copy to the Corporation Review Committee within 21 days after adoption. A county or eligible municipality must amend its plan if at any time a strategy will be deleted or a new strategy will be added. ~~However, an amendment must at all times maintain consistency with SHIP program requirements. All amendments will be reviewed by the Review Committee.~~ Amendments that do not add, delete or significantly alter a strategy are considered technical and are not subject to the amendment review process.

(4) A county or eligible municipality ~~that which~~ has adopted a Plan or an amendment that has been determined by the Corporation Review Committee to be inconsistent with the requirements of the SHIP program, shall make necessary revisions identified ~~by the Review Committee~~ within 45 days of receipt of the Committee's comments.

*Rulemaking Authority 420.9072(9) FS. Law Implemented 420.9072(2) FS. History--New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.006, Amended 12-26-99, 9-22-03, 2-24-08, 11-22-09,\_\_\_\_\_.*

#### **67-37.007 Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.**

(1) SHIP local housing distribution funds shall be used to implement the local housing assistance plan. The benefit of assistance provided through the SHIP program must accrue to eligible persons occupying Eligible Housing. This provision shall not be construed to prohibit use of the local housing distribution deposited into the

local housing assistance trust fund for a mixed-income rental development.

(a) All local housing distribution funds shall be Encumbered by June 30 of the State fiscal year following the end of the applicable State fiscal year.

(b) The funds deposited to the local housing assistance trust fund must be Expended within 24 months from the end of the applicable State fiscal year. Requestsa for extensions for good cause must be submitted by the local government to the Corporation and will be reviewed and approved or denied by the Corporation on a case-by-case basis. Examples of good cause include disasters, requirements of other State agencies or housing programs, adverse market conditions, and unavoidable development delays. The Corporation may require a local government requesting an expenditure extension to receive technical assistance through the Catalyst program.

(c) If funds remain unexpended after the original or extended deadline, the County or eligible municipality will be deemed to be in non-compliance and funds will be subject to recapture by the Corporation.

(d) SHIP local housing distribution funds may be used;

1.(a) To implement the local housing assistance plan and incentive strategies that create or preserve affordable housing;

2.(b) To supplement Corporation programs, for example: the State Apartment Incentive Loan Program established under Section 420.5087, F.S., the Community Workforce Housing Innovation Pilot Program and Home Ownership Assistance Program (HAP) established under Section 420.5088, F.S., with the SHIP local housing distribution funds directed to uses within the local government jurisdiction;

3.(e) To provide local match to obtain federal housing grants or programs, such as HOME, established by 24 CFR, Part 92; and

(d) To fund emergency repairs by existing service providers under weatherization programs, pursuant to Sections 409.509 .5093, F.S.; and

4.(e) To further the housing element of the local government comprehensive plan adopted pursuant to Section 163.3184, F.S., specific to affordable housing.

(2) SHIP local housing distribution funds may be used for both home ownership and rental housing activities. However, at At least sixty-five percent of each local government's local housing distributions must be used for Home Ownership Activities. The expenditure of program income is exempt from this requirement.

(3) At least seventy-five percent of each a local government's SHIP local housing distributions must be used for construction, rehabilitation or emergency repairs of affordable, Eligible Housing. The expenditure of program income is exempt from this requirement. Construction, rehabilitation, or emergency repairs must be completed either within one year immediately preceding the date of conveyance of title (i.e., closing) or within 24 months of the close of the applicable State fiscal year to satisfy the Expenditure this requirement, unless otherwise extended by the Corporation as provided at paragraph 67-37.005(6)(i), F.A.C. The expenditure of program income is exempt from this requirement. For purposes of this rule, SHIP recipients may rely on the following expenditures to be considered construction, rehabilitation or emergency repair costs:

(a) through (e) No change.

(f) Financing, or "buy-down" costs, if directly attributable to assisting eligible persons to own a home or obtain rental occupancy (e.g., security and utility deposit assistance) in a home or unit that which has obtained a certificate of occupancy in the 12-month period immediately preceding the contract for sale and purchase or has never been occupied or lease of the premises. When used to purchase an existing housing unit, closing costs and down payment assistance will be considered toward fulfilling the 75 percent construction requirement only if the housing unit receives rehabilitation. Any other costs may be submitted to the Corporation Review Committee for review and approval.

(4) At least 20 percent of each local government's local housing distribution must be used to serve persons with special needs as defined in Section 420.0004, F.S. A local government must meet this requirement through existing approved strategies in the local housing assistance plan or submit a new local housing assistance plan strategy for this purpose. The first priority of these special needs funds must be to serve persons with developmental disabilities as defined in Section 393.063, F.S., with an emphasis on home modifications, including technological enhancements

and devices, which will allow homeowners to remain independent in their own homes and maintain their homeownership.

(4) is renumbered as (5). No change.

(6) A county or eligible municipality may spend funds to provide ongoing rent subsidies for:

(a) Security and utility deposit assistance;

(b) Eviction prevention not to exceed 6 months' rent; and-

(c) A rent subsidy program for very-low-income households with at least one adult who is a person with special needs as defined in Section 420.0004, F.S. or is homeless as defined in Section 420.621, F.S. The period of rental assistance may not exceed 12 months for any eligible household.

~~(7)(5)~~ The Corporation shall review and approve expenditures for the following categories as Administrative Expenditures:

(a) Salaries of persons directly responsible for preparation of the plans or reporting required as part of the administration of the local SHIP ~~program plan~~. The salary allocated to SHIP Administrative Expenditures of any employee shall reflect activities involving administration of the SHIP program, ~~but~~; no SHIP program funds are permitted to be expended for the administration of activities not involving SHIP funds;

(b) Office expenditures ~~affiliated with of persons responsible for~~ the administration of the local SHIP ~~program plan~~;

(c) and (d) No change.

~~(8)(e)~~ Additional Administrative Expenditures detailed in the local housing assistance plan ~~that which~~ do not fit in these categories shall be analyzed by the ~~Corporation Review Committee~~, which shall make a determination as to whether the proposed expenditures shall be approved as Administrative Expenditures or Project Delivery Costs.

~~(9)(f)~~ Small counties and eligible municipalities receiving a local housing distribution of up to \$350,000 may use up to 10 percent of program income for administrative Expenditures costs.

~~(10)(6)~~ The balance of the local housing distribution funds and other funds deposited into the local housing assistance trust fund must be used for housing production and finance activities, including: financing preconstruction activities, financing the purchase of existing units, providing rental housing, and providing home ownership training or counseling to prospective home buyers and owners of homes assisted through the local housing assistance plan.

(7) and (8) renumbered as (11) and (12). No change.

~~(13)(9)~~ All units constructed, rehabilitated, or otherwise assisted with local housing distributions provided from the local housing assistance trust fund must be occupied by eligible persons as required by Section 420.9075(4)(e)1., F.S. The remainder may be reserved for ~~eligible persons or~~ eligible sponsors that will serve eligible persons.

~~(14)(10)~~ Monthly mortgage payments, including taxes and insurance, and monthly rental payments must be affordable for very low, low- and moderate-income persons and households.

~~(15)(11)~~ Rental units constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund must be monitored ~~at least~~ annually by the local government, or to the extent another government entity or Corporation program provides periodic monitoring, the local government may rely on that entity's monitoring for 15 years or the term of assistance, whichever is longer, for compliance with tenant income and affordability requirements, except as referenced in Section 420.9075(4)(e), F.S. In determining the maximum allowable rents, 30 percent of the applicable income category divided by 12 months shall be used based on the number of bedrooms. A one-person household shall be used for an efficiency unit, and for units with separate bedrooms, one and one-half persons per bedroom shall be used. A rental limit chart based on the above calculation adjusted for bedroom size will be provided to the local governments by the Corporation annually.

~~(16)(12)~~ All Loans and Grants for ~~units~~ houses constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund shall be subject to recapture requirements as described by the county or eligible municipality in its local housing assistance plan. Any strategy proposed that will award funds as a Grant without any recapture requirements shall be submitted to the Corporation denoted as a Grant as part of the local housing assistance plan for approval by the ~~Corporation Review Committee~~.

(13) and (14) renumbered as (17) and (18). No change.



~~(19)(15)~~ Local housing distribution funds deposited to the local housing assistance trust fund shall not be used as a pledge of the ~~Debt Service on bonds or as rent subsidies.~~

~~(20)(16)~~ Pursuant to Section 420.9073(5), F.S., in the event of a housing related disaster declared by an Executive Order of the President or Governor, counties and eligible municipalities impacted by the disaster and included in the Executive Order may request funding for activities described in their ~~its~~ local housing assistance plans ~~plan~~ or under the disaster strategy. Requests for additional funds shall be submitted in writing and shall include the name of the local government and amount of funds requested and a schedule of when the funds being requested are to be expended. The request shall also include the number of households to be assisted, addresses, damage assessment performed by FEMA, the Department of Emergency Management, or other local agency performing disaster assessments and dollar estimate of repairs. Disaster funds shall be disbursed to local governments based on demonstrated need ~~on a first come, first served basis~~ pending availability of funds. Counties and eligible municipalities receiving additional funds for disaster that have unencumbered funds shall expend the unencumbered funds before requesting disaster funds. Disaster activities shall be included in the Annual Report submitted by local jurisdictions by September 15 following the close of the fiscal year.

(17) renumbered as (21). No change.

*Rulemaking Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History--New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.007, Amended 12-26-99, 9-22-03, 11-5-06, 2-24-08, 11-22-09,\_\_\_\_\_.*

#### **67-37.008 Local Housing Assistance Trust Fund.**

(1) No change.

(2) The local housing assistance trust fund for all local governments including interlocal entities shall be separately stated as a special revenue fund in a county's or eligible municipality's audited financial statements. Electronic ~~Copies of such audited financial statements or a hyperlink to the website where the report is posted~~ shall be transmitted forwarded annually to the Corporation no later than June 30th of the following state fiscal year. In addition to providing audited financial statements, all participating jurisdictions must provide evidence of compliance with the Florida Single Audit Act, as referenced in Sections 215.97(7) and (8) ~~(6)~~, F.S.

(3) All Expended funds reported on the SHIP Annual Report shall be reconciled to the general ledger for each State fiscal year prior to submission of the SHIP Annual Report.

~~(4)(3)~~ In addition to the Annual Report requirements outlined in Section 420.9075(10), F.S., local governments shall submit information as required by the Corporation on the Annual Report for:

(a) Foreclosure rates on SHIP loans;

(b) Administrative Expenditures separately stated for the costs of the local government and any Sub Recipients administering the program;

(c) Total Recaptured Funds and program income separately stated for event type (Foreclosure, sale of property, refinance);

(d) Total amount of unexpended funds that will be carried forward to the next SHIP fiscal year;

~~(e)(4)~~ A list of Sub Recipients that administer any portion of the SHIP program. The list shall include name of person or organization, business type, a description of the strategies and responsibilities for each sub recipient or consultant; and

~~(f)(e)~~ Tracking of Persons with Special Needs; and disabilities and any other additional program information needed by the Corporation.

(g) Responses to requests for information from the Legislature or Governor's office.

~~(5)(f)~~ Annual Reports shall be submitted to the Corporation electronically via the internet using the SHIP Annual Report system "Form SHIP AR/2009". SHIP Annual Report, "Form SHIP AR/2009" is adopted and incorporated herein by reference with an effective date of 11/2009. The A copy of SHIP Annual Report system can be accessed at, "Form SHIP AR/2009" may be obtained at [www.floridahousing.org](http://www.floridahousing.org). Click on Housing Partners; then Local Governments (SHIP); then click on SHIP Annual Reports.

~~(4) An interlocal entity shall have its local housing assistance trust fund separately audited for each State fiscal year. The audit shall be forwarded to the Corporation as soon as available, but no later than June 30th of the following fiscal year.~~

~~(6)(5) Local governments that ~~which~~ have had an audit, review or investigation involving SHIP funds shall ~~will~~ send the Corporation a copy of any related report within 10 days of the issuance of such report.~~

*Rulemaking Authority 420.9072(9) FS. Law Implemented 420.9075(5) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 9I-37.008, Repromulgated 12-26-99, Amended 9-22-03, 1-30-05, 11-5-06, 2-24-08, 11-22-09, \_\_\_\_\_.*

#### **67-37.010 Local Affordable Housing Advisory Committees and Incentive Strategies.**

~~(1) The affordable housing advisory committee, as established in Section 420.9076(3), F.S., must approve the local affordable housing incentive strategy recommendations at a public hearing by affirmative vote of a majority of the membership of the advisory committee.~~

~~(2) The affordable housing advisory committee shall evaluate established policies, procedures, ordinances, land development regulations, and the local government comprehensive plan submitted and report to the local government governing board including recommended changes as established in Section 420.9076, F.S. The initial report shall be submitted to the local government governing board by December 31, 2008. After this initial submission, the reports are required to be submitted triennially on December 31 of the year preceding the submission of the local housing assistance plan. For local governments required to submit a local housing assistance plan on May 2, 2010, the report submitted by December 31, 2008 shall constitute the required report for December 31, 2009.~~

~~(3) The county or eligible municipality shall transmit to the Corporation an electronic copy of the report which has been submitted to the local governing board for consideration by May 2 of the year following the report due date.~~

~~(4) A county or eligible municipality which does not have an established affordable housing advisory committee shall establish said committee and appoint all required members by June 30, 2008.~~

~~(5) Local governments that administer the SHIP program under an Interlocal Agreement as established in Rule 67-37.011, F.A.C., and have one LHAP may request approval from the Corporation to use the same affordable housing advisory committee. When one advisory committee is utilized for the local governments participating in an Interlocal Agreement, the advisory committee shall comply with all requirements for advisory committees as established in Section 420.9076, F.S., for each of the local governments in the Interlocal Agreement separately.~~

*Rulemaking Authority 420.9072(9) FS. Law Implemented 420.907, 420.9076 FS. History—New 2-9-94, 1-6-98, Formerly 9I-37.010, Amended 12-26-99, Repromulgated 9-22-03, Amended 2-24-08, 11-22-09, repealed \_\_\_\_\_.*

#### **67-37.011 Interlocal Entities.**

~~(1) The interlocal agreement shall specify whether a single report for all jurisdictions or individual Annual Rreports for each participating local government shall be submitted pursuant to Section 420.9075(10), F.S.~~

~~(2) New eEligible municipalities that ~~which~~ intend to become a member of an established interlocal entity must:~~

~~(a) Adopt an ordinance that ~~which~~ creates the affordable housing advisory committee, establishes responsibility for plan administration and, if applicable, establishes the local affordable housing trust fund; and~~

~~(b) Adopt by resolution one a local housing assistance plan and adopt by resolution the appointments to the advisory committee.~~

~~(3) No change.~~

*Specific Authority 420.9072(9) FS. Law Implemented 420.9072(5) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 9I-37.011, Amended 12-26-99, 9-22-03, 2-24-08, \_\_\_\_\_.*

**67-37.019 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.**

(1) The local government staff or entity with administrative authority for a local housing assistance plan shall maintain a financial tracking system ~~that which~~ ensures that the local housing distribution funds disbursed from the local housing trust fund are expended in accordance with the set-aside requirements in Rule 67-37.007, F.A.C., within deadlines established in subsection 67-37.005(6), F.A.C. and in compliance with Section 420.9075, F.S. Failure by the local government staff or entity with administrative authority to properly track SHIP funds or reconcile the funds to the general ledger shall result in the local government being deemed in non-compliance with the SHIP program. In this circumstance, the local government or administrative entity shall be required to receive technical assistance through the Catalyst program.

(2) The combined household Annual Gross Income of an applicant who is applying as an owner/occupant of a residence shall be verified and certified by the SHIP program administrator or designee using one of the following methods:

- (a) Section 8 housing assistance payments programs in 24 C.F.R. part 5; or
- (b) ~~Annual income as reported under the census long form for the recent available decennial census; or~~
- (c) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes.

(3) No change.

(4) The local government staff or entity with authority for administering a local housing assistance plan assisting rental developments shall monitor annually, or to the extent another government entity or Corporation program provides periodic monitoring, the local government may rely on that entity's monitoring to ~~and~~ determine tenant eligibility and the amount of subsidy using the same guidelines as specified at subsection (2) above, ~~at least~~ annually for 15 years or the term of assistance, whichever is longer. The Corporation shall monitor the activities of the local governments to determine compliance with program requirements as defined in Section 420.9075(4)(e), F.S.

(5) The local government staff or entity with administrative authority for a local housing assistance plan shall provide documentation ~~documented evidence~~ to the Corporation upon request that details ~~or its designated monitoring agent, that:~~

(a) Permits, as defined in Sections 163.3164(15)(7) and (16)(8), F.S., for affordable housing projects are expedited to a greater degree than other projects; and

(b) No change.

(6) No change.

(7) Subsequent to a local government SHIP program being monitored by the Corporation or its designated agent and receiving a copy of the compliance monitoring report, the local government shall submit a written response to any findings or observations ~~deficiencies~~ documented in the monitoring report to the Corporation and the designated monitoring agent. The required response shall be submitted within 30 days and shall include an explanation and/or remedy for each item in ~~on~~ the compliance monitoring review ~~form scoring less than 70 percent~~, including:

(a) through (b) No change.

(c) A timeline for correcting the deficiencies; and.

(d) No change.

(8) If the Corporation issues a written report pursuant to Section 420.9075(13)(a), F.S., finding staff or its designated monitoring agent determines that an eligible jurisdiction has violated ~~established a pattern of violation of the program~~ criteria of its local housing assistance plan established under Sections 420.907-9079, F.S., or that an eligible sponsor has established a pattern of violation of the applicable award conditions, the Corporation shall:

(a) Submit such report ~~Report such pattern of violation~~ to the Executive Office of the Governor at which time the distribution of program funds to the county or eligible municipality shall be suspended; or.

(b) Require the local government to work with technical assistance provider through the Catalyst program, to develop a corrective action plan (CAP).

~~1.(e)~~ The CAP shall be submitted to the Corporation within 60 days of the date of the letter from the Corporation notifying the eligible jurisdiction of the pattern of violation.

~~2.(d)~~ The CAP must describe the proposed corrective action for each violation and how the correction actions will be implemented within 3 months of an approval of the CAP by the Corporation.

~~3.(e)~~ The Corporation shall have 30 days to review and approve or recommend changes to the CAP. Upon approval of the CAP, any undisbursed funds due to the local government shall be distributed.

(9) Projects receiving assistance from the local housing assistance plan and from other State or federal programs ~~that which~~ may have conflicting verification, and certification, ~~and monitoring~~ requirements, shall comply with requirements of the most restrictive program.

(10) Any local government receiving SHIP funds ~~that which~~ administers any portion of the SHIP program through a contracted Sub Recipient shall bear responsibility for actions of the sub recipient and shall monitor all sub recipients to insure compliance is maintained on all SHIP funded activities. The required ~~Any contract or agreement~~ between the local government and sub recipient shall detail the policies and procedures that shall be adhered to in the management of the SHIP activities.

(11) Any contract or document establishing the relationship between a SHIP eligible local government and an a ~~non state~~-organization ~~that which~~ is a Sub Recipient receiving SHIP funds shall contain the standard audit language on Form DFS-A2-CL (Effective 7/05) of the Florida Single Audit Act in the document.

*Rulemaking Authority 420.9072(9) FS. Law Implemented ~~420.907, 420.9075(3)(e)~~ FS. History--New 2-24-08, Amended 11-22-09,*  
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NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Dearduff, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 500, Tallahassee, FL 32301, (850)488-4197

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Bernard Smith, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2016.

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