**FLORIDA HOUSING FINANCE CORPORATION**

**RENTAL RECOVERY LOAN PROGRAM (RRLP)**



**67ER05-8 Purpose and Intent.**

The purpose of this rule chapter is to establish the procedures by which the Corporation shall administer the Application process, determine loan amounts, make and service mortgage loans for the construction or Substantial Rehabilitation of affordable rental units utilizing Rental Recovery Loan Program funds, authorized by Ch. 2005-92, L.O.F. Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-9 Definitions.**

(1) “Act” means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, F.S.

(2) “Address” means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If address has not yet been assigned, include, at a minimum, street name and closest designated intersection, city, state and zip code.

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

(4) “Applicant” means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application for one or more of the Corporation’s programs.

(5) “Application” means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for the RRLP Program. A completed Application may include additional supporting documentation provided by an Applicant.

(6) “Application Deadline” means 5:00 p.m., Eastern Time, on the final day of the Application Period for the RRLP Program.

(7) “Application Period” means a period during which Applications shall be accepted as posted on the Corporation’s Website and with a deadline no less than thirty days from the beginning of the Application Period.

(8) “ALF” or “Assisted Living Facility” means a Florida licensed living facility that complies with Sections 400.401 through 400.454, F.S., and Chapter 58A-5, F.A.C.

(9) “Board of Directors” or “Board” means the Board of Directors of the Corporation.

(10) “Calendar Days” means the seven (7) days of the week.

(11) “Competitive HC Program” means the rental housing program administered by the Corporation pursuant to Section 42 of the IRC and Section 420.5099, F.S., under which the Corporation is designated the housing credit agency for the state of Florida within the meaning of Section 42(h)(7)(A) of the IRC and Rule Chapter 67-48, F.A.C.

(12) “Compliance Period” means a period of time that the Development shall conform to all set-aside requirements as described further in this rule chapter and agreed to by the Applicant in the Application.

(13) “Contact Person” means the person with whom the Corporation will correspond concerning the Application and the Development. This person cannot be a third-party consultant.

(14) “Corporation” means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

(15) “Credit Underwriter” means the independent contractor under contract with the Corporation having the responsibility for providing stated credit underwriting services.

(16) “Developer” means any individual, association, corporation, joint venturer, or partnership which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing as required in the Application.

(17) “Development” means Project as defined in Section 420.503, F.S.

(18) “Development Cash Flow” means cash flow as calculated in the statement of cash flows prepared in accordance with generally accepted accounting principles (“GAAP”) and as adjusted for items including any distribution or payment to the Principal(s) or any Affiliate of the Principal(s) or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining debt service coverage in the Board approved final credit underwriting report.

(19) “Development Cost” means the total of all costs incurred in the completion of a Development excluding developer fee, acquisition cost of existing developments, and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

(20) “Development Expenses” means usual and customary operating and financial costs, such as the compliance monitoring fee, the financial monitoring fee, replacement reserves, the servicing fee and the debt service reserves. As it relates to Developments and to the application of Development Cash Flow described in this rule chapter, the term includes only those expenses disclosed in the operating pro forma included in the final credit underwriting report, as approved by the Board.

(21) “Document” means electronic media, written or graphic matter, of any kind whatsoever, however produced or reproduced, including records, reports, memoranda, minutes, notes, graphs, maps, charts, contracts, opinions, studies, analysis, photographs, financial statements and correspondence as well as any other tangible thing on which information is recorded.

(22) “Draw” means the disbursement of funds to a Development.

(23) “Elderly” means Elderly as defined in Section 420.503, F.S.

(24) “ELI Household” means a household of one or more persons wherein the adjusted income for the Family is equal to or below the percentage of area median income on the ELI County Chart, Part III.E. of the Application for the RRLP Program, for the county where the household is located.

(25) “ELI Set-Aside” or “Extremely Low Income Set-Aside” means the number of units designated to serve ELI Households.

(26) “Eligible Persons” means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the Corporation to be income eligible, as further described in this rule chapter.

(27) “EUA” or “Extended Use Agreement” means, with respect to the HC Program, an agreement between the Corporation and the Applicant which sets forth the set-aside requirements and other Development requirements under the HC Program.

(28) “Executive Director” means the Executive Director of the Corporation.

(29) “Family” describes a household composed of one or more persons.

(30) “Financial Beneficiary” means any Developer and its Principals or Principals of the Applicant entity who receives or will receive a financial benefit as outlined in paragraphs (a) and (b) below and as further described in this rule chapter:

(a) 3% or more of Total Development Cost if Total Development Cost is $5 million or less; or

(b) 3% of the first $5 million and 1% of any costs over $5 million if Total Development Cost is greater than $5 million.

(31) “Financial Institution” means Lending institution as defined in Section 420.503, F.S.

(32) “Florida Keys Area” means all lands in Monroe County, except:

(a) That portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of said Park;

(b) All lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments; and

(c) Federal properties.

(33) “Funding Cycle” means the period of time commencing with the opening of the Application Period pursuant to this rule chapter and concluding with the issuance of loans to Applicants who applied during the Application Period.

(34) “General Contractor” means a person or entity duly licensed in the state of Florida with the requisite skills, experience and credit worthiness to successfully provide the units required in the Application, and which meets the criteria described in this rule chapter.

(35) “HC” or “Housing Credit Program” means the rental housing program administered by the Corporation pursuant to Section 42 of the IRC and Section 420.5099, F.S., under which the Corporation is designated the Housing Credit agency for the State of Florida within the meaning of Section 42(h)(7)(A) of the IRC and Rule Chapter 67-48, F.A.C.

(36) “HOME-Rental Program” means the HOME Investment Partnerships Program administered by the Corporation pursuant to 24 CFR Part 92, which is adopted and incorporated herein by reference and available at

http://www.access.gpo.gov/nara/cfr/waisidx_04/24cfr92_04.html, and Section 420.5089, F.S.

(37) “Housing Credit” means the tax credit issued in exchange for the development of rental housing pursuant to Section 42 of the IRC and the provisions of Rule Chapter 67-48, F.A.C.

(38) “Housing Credit Syndicator” means a person, partnership, corporation, trust or other entity that regularly engages in the purchase of interests in entities that produce Qualified Low Income Housing Projects [as defined in Section 42(g) of the Internal Revenue Code] and provides at least one written reference in the Application that such person, partnership, corporation, trust or other entity has performed its obligation under the partnership agreements and is not currently in default under those agreements.

(39) “HUD” means the United States Department of Housing and Urban Development.

(40) “IRC” means Section 42 and subsections 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, as in effect on the date of this rule chapter, together with corresponding and applicable final, temporary or proposed regulations, notices, and revenue rulings issued with respect thereto by the Treasury or the Internal Revenue Service of the United States, which are incorporated by reference. Section 42 is available at http://www.access.gpo.gov/uscode/title26/subtitlea_chapter1_subchaptera_partiv_subpartd_.html and subsections 501(c)(3) and 501(c)(4) are available at http://www.access.gpo.gov/uscode/title26/subtitlea_chapter1_subchapterf_parti_.html.

(41) “Local Government” means Local government as defined in Section 420.503, F.S.

(42) “Low Income” means the adjusted income for a Family which does not exceed 80% of the area median income.

(43) “LURA” or “Land Use Restriction Agreement” means an agreement between the Corporation and the Applicant which sets forth the set-aside requirements and other Development requirements under a Corporation program.

(44) “Mortgage” means Mortgage as defined in Section 420.503, F.S.

(45) “Non-Profit” means a qualified non-profit entity as defined in Section 42(h)(5), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under Chapter 617, F.S., if a Florida Corporation, or organized under similar state law if organized in a jurisdiction other than Florida, to provide housing and other services on a not-for-profit basis, which owns at least 51% of the ownership interest in the Development held by the general partner entity and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing.

(46) “Note” means a unilateral agreement containing an express and absolute promise to pay to the Corporation a principal sum of money on a specified date, which provides the interest rate and is secured by a Mortgage.

(47) “Principal” means an Applicant, any general partner of an Applicant, and any officer, director, or any shareholder of any Applicant or shareholder of any general partner of an Applicant.

(48) “Project” or “Property” means Project as defined in Section 420.503, F.S.

(49) “Received” as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, U.S. Postal Service or other courier service, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

(50) “RRLP” or “RRLP Program” means the Rental Recovery Loan Program created pursuant to Ch. 2005-92, L.O.F.

(51) “RRLP Development” means a residential development comprised of one or more residential buildings and functionally related facilities, proposed to be constructed or substantially rehabilitated with RRLP funds for Eligible Persons.

(52) “RRLP Minimum Set-Aside Requirement” means the least number of set-aside units in a RRLP Development which must be held for persons or households pursuant to the category (i.e., Family or Elderly) under which the Application has been made, as further described in this rule chapter.

(53) “RRLP Rent-Restricted Unit” means a unit for which the gross rent does not exceed 30% of the imputed income limitation applicable to such unit as chosen by the Applicant in the Application and in accordance with Section 42 of the IRC.

(54) “SAIL” or “SAIL Program” means the State Apartment Incentive Loan Program created pursuant to Sections 420.507(22) and 420.5087, F.S.

(55) “Scattered Sites” for a single Development means a Development consisting of more than one parcel in the same county where two or more of the parcels (i) are not contiguous to one another or are divided by a street or easement and (ii) it is readily apparent from the proximity of the sites, chain of title, or other information available to

the Corporation that the properties are part of a common or related scheme of development.

(56) “Section 8 Eligible” means a Family with an income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, as amended, which is adopted and incorporated herein by reference and available at http://www.access.gpo.gov/uscode/title42/chapter8_subchapteri_.html.

(57) “Single Room Occupancy” or “SRO” means housing, consisting of single room dwelling units, that is the primary residence of its occupant or occupants. An SRO does not include facilities for students.

(58) “Sponsor” means Sponsor as defined in Section 420.503, F.S.

(59) “Substantial Rehabilitation” means to bring a Development back to its original state with added improvements, where the value of such repairs or improvements (excluding the costs of acquiring or moving a structure) exceeds 40% of the appraised as is value (excluding land) of such Development before repair. For purposes of this definition, the value of the repairs or improvements means the Development Cost. To be considered “Substantial Rehabilitation,” there must be at least the foundations remaining from the previous structures, suitable to support the proposed construction.

(60) “Tax Exempt Bond-Financed Development” means a Development which has been financed by the issuance of tax-exempt bonds subject to applicable volume cap pursuant to Section 42(h)(4) of the IRC.

(61) “Tie-Breaker Measurement Point” means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development.

For a Development which consists of Scattered Sites, this means a single point on one of the Scattered Sites which comprise the Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than 4 units.

(62) "Tier" means the division of the counties of the state of Florida, as established by Ch. 2005-92, L.O.F., for the prioritization of the RRLP funds.

(63) "Total Development Cost" means the total of all costs incurred in the completion of a Development, all of which shall be subject to the review and approval by the Credit Underwriter and the Corporation pursuant to this rule chapter, and as further described in this rule chapter.

(64) "Treasury" means the United States Department of Treasury or other agency or instrumentality created or chartered by the United States to which the powers of the Department of Treasury have been transferred.

(65) "Urban In-Fill Development" means a Development (i) in a site or area that is targeted for in-fill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone, a HUD-approved Neighborhood Revitalization Strategy, Florida Enterprise Zone, area designated under a Community Development Block Grant (CDBG), area designated as HOPE VI or Front Porch Florida Community, or a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan, and (ii) in a site which is

located in an area that is already developed and part of an incorporated area or existing urban service area.

(66) “Very Low-Income” means

(a) If using tax-exempt bond financing for the first mortgage, income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, as in effect on the date of this rule chapter; or

(b) If using taxable financing for the first mortgage, total annual gross household income which does not exceed 50% of the median income adjusted for family size, or 50% of the median income adjusted for family size for households within the metropolitan statistical area (MSA), within the county in which the Family resides, or within the state of Florida, whichever is greater; or

(c) If used in a Development using Housing Credits, income which meets the income eligibility requirements of Section 42 of the IRC.

(67) “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) for which is www.floridahousing.org.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-10 Application and Selection Procedures for Developments.**

(1) When submitting an Application, Applicants must utilize the Rental Recovery Loan Program (RRLP) Application in effect at the Application Deadline, unless provided otherwise in the RRLP Application instructions.

(a) The RRLP Application Package or RRLP1016 consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street,

Suite 5000, Tallahassee, Florida 32301-1329 or available, without charge, on the Corporation's Website under the Rental Recovery Loan Program Application and Instructions link, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the RRLP Program. The RRLP Application Package is adopted and incorporated herein by reference, effective July 13, 2005.

(b) All Applications must be complete, legible and timely when submitted, except as described below. Corporation staff may not assist any Applicant by copying, collating, or adding documents to an Application nor shall any Applicant be permitted to use the Corporation's facilities or equipment for purposes of compiling or completing an Application.

(2) Failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold, rejection of the Application, a score less than the maximum available, or a combination of these results in accordance with the instructions in the Application and this rule chapter.

(3) Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the RRLP Application Package and these rules. Preliminary scores shall be transmitted to all Applicants.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application must file with the Corporation, within eight (8) Calendar Days of the date the preliminary scores are sent by overnight delivery by the Corporation, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must

specify the assigned Application number and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE timely Received.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant.

(6) Within 11 Calendar Days of the date the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation, each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsections (3) and (5) above that could result in rejection of the Application or a score less than the maximum available. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. The Applicant shall submit an original and three copies of all additional documentation

and revisions. Only revisions, changes and other information Received by the deadline set forth herein will be considered. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(7) Within seven (7) Calendar Days of the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above, all Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. Each NOAD is limited only to issues created by document revisions, additions, or both, by the Applicant submitting the Application pursuant to subsection (6) above. Each NOAD must specify the assigned Application number, the pages and the documents in question, as well as describe the alleged deficiencies in detail. Each NOAD is limited to the review of only one Applicant's submission. However, there is no limit to the number of NOADs which may be submitted. NOADs which seek the review of more than one Applicant's submission will be considered improperly filed and ineligible for review. The Corporation will only review written NOADs that are Received timely.

(8) The Corporation shall transmit a copy of all NOADs to the affected Applicant.

(9) Following the receipt and review by the Corporation of the documentation described in subsections (5), (6) and (7) above, the Corporation shall then prepare final scores. In determining such final scores, no Application shall be rejected or receive a point reduction as a result of any issues not previously identified in the notices described in subsections (3), (4) and (5) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsections (6) and (7) above will still be justification for rejection or reduction of points, as appropriate. Notwithstanding the

foregoing, any deficiencies in the mandatory elements set forth in subsection (14) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application. The Corporation shall then transmit final scores to all Applicants.

(10) The availability of any remaining funds shall be noticed or offered to a Development as described in the Ranking and Selection Criteria section of the RRLP Application instructions.

(11) RRLP Applications shall be limited to one submission per subject property. Two or more Applications with the same Financial Beneficiary for Developments that are contiguous with the property of another Application, or that are divided by a street or easement, or if it is readily apparent from the two Applications, proximity, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of development, will be considered to be submissions for the same Development site and the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application with the lowest lottery number will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number.

(12) If the Board determines that any Applicant or any Affiliate of an Applicant:

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any past or present Application or Development;

(c) Has been convicted of fraud, theft or misappropriation of funds;

(d) Has been excluded from federal or Florida procurement programs; or

(e) Has been convicted of a felony;

And that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin from the date the Board makes such determination. Such determination shall be either pursuant to a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(13) The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate as described in subsection (6) above:

(a) The Development is inconsistent with the purposes of the RRLP Program or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application, and Application instructions;

(c) The Applicant fails to file all applicable Application pages and exhibits which are provided by the Corporation and adopted under this rule chapter or as provided for in the RRLP Application instructions;

(d) An Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation. This paragraph does not include permissible deferral of SAIL interest.

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Name of Applicant;

(b) Identity of each Developer, including all co-Developers;

(c) Site for the Development;

(d) Development Category;

(e) Development Type;

(f) Demographic Commitment;

(g) County;

(h) Total number of units;

(i) RRLP Loan Request Amount; with the exception that an Applicant may reduce the amount to reflect the maximum request amount allowed in those instances where an Applicant requested more than its request limit.

(j) Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

(k) Payment of the required Application fee by the Application Deadline.

All other items may be submitted as cures pursuant to subsection (6) above.

(15) A Development will be withdrawn from funding and any outstanding commitments for funds will be rescinded if, at any time, the Board determines that the

Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(16) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer has any existing Developments participating in any Corporation programs that remain in non-compliance with Section 42 of the IRC or applicable loan documents, and any applicable cure period granted for correcting such non-compliance has ended as of the time of submission of the Application or at the time of issuance of a credit underwriting report, the requested allocation will, upon a determination by the Board that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing, be denied and the Applicant and the Affiliates of the Applicant or Developer will be prohibited from new participation in any of the Corporation's programs for the subsequent cycle and continuing until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(17) When two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the RRLP Application instructions.

(18) At no time during the Application, scoring and appeal process may Applicants or their representatives contact Board members concerning their own Development or any other Applicant's Development. At no time from the Application Deadline until the issuance of the final scores as set forth in subsection (9) above, may Applicants or their representatives verbally contact Corporation staff concerning their own Application or any other Applicant's Application. If an Applicant or its

representative does contact a Board member in violation of this section, the Board shall, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(19) Applicants may withdraw an Application from consideration only by submitting a written notice of withdrawal to the Corporation Clerk. Applicants may not rescind any notice of withdrawal that was submitted to the Corporation Clerk. For ranking purposes, the Corporation shall disregard any withdrawal that is submitted after 5:00 p.m., Eastern Time, 14 Calendar Days prior to the date the Board is scheduled to convene to consider approval of the final ranking of the Applications and such Application shall be included in the ranking as if no notice of withdrawal had been submitted. After the Board has approved the final ranking, any notice of withdrawal submitted during the time period prohibited above and before the Board approves the final ranking, shall be deemed withdrawn immediately after Board approval of the final ranking.

(20) The name of the Development provided in the Application may not be changed or altered after submission of the Application during the history of the Development with the Corporation unless the change is requested in writing and approved in writing by the Corporation.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-11 Applicant Administrative Appeal Procedures.**

(1) At the conclusion of the review and scoring process established by this rule chapter, each Applicant will be provided with the final ranking scores and a notice of

rights, which shall constitute the point of entry to contest any issue related to Applications for the RRLP Program.

(2) Each Applicant that wishes to contest the final scores must file a petition with the Corporation within 21 Calendar Days after the date Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue and score sought to be challenged. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders.

The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(4) No funding will be awarded until the conclusion of all litigation and appeal proceedings conducted pursuant to Sections 120.569, 120.57, and 120.68, F.S.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-12 Fees.**

The Corporation or the Credit Underwriter shall collect via check or money order the following fees and charges in conjunction with the RRLP Program, as outlined in the RRLP Application instructions:

(1) RRLP Application Package fee, if applicable.

(2) Application fee.

(3) Credit Underwriting fees.

(4) Commitment fees.

(5) Compliance monitoring fees.

(6) Loan servicing fees.

(7) Construction inspection fees.

(8) Financial monitoring fees.

All of the fees set forth above are part of Development Cost and can be included in the Development Cost pro forma and paid with RRLP loan proceeds. Failure to pay any fee shall cause the firm loan commitment to be terminated or shall constitute a default on the respective loan documents.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-13 Credit Underwriting and Loan Procedures.**

The credit underwriting review shall include a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and the Development team to proceed, the evidence of need for affordable housing in order to determine that the Development meets the program requirements and determine a recommended RRLP loan amount, if any. As part of the credit underwriting review, the Credit Underwriter will consider the applicable provisions of this rule chapter.

(1) No funding will be awarded until the conclusion of all litigation and appeal proceedings conducted pursuant to Sections 120.569, 120.57, and 120.68, F.S. At the conclusion of such litigation and appeal proceedings, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting. The Corporation shall select the Credit Underwriter for each Development. The invitation to enter credit underwriting constitutes a preliminary commitment.

(2) A response to the invitation to enter credit underwriting must be received by the Corporation and the Credit Underwriter not later than 7 Calendar Days after the date of the letter of invitation. By acknowledging acceptance to enter credit underwriting for the RRLP Program, Applicants that have already accepted a preliminary commitment or preliminary allocation for the proposed Development through the SAIL, HOME-Rental or Competitive HC Program(s) will be deemed withdrawn from the SAIL, HOME-Rental or Competitive HC Program(s).

(3) If the credit underwriting invitation is accepted:

(a) The Applicant shall submit the credit underwriting fee to the Credit Underwriter within 7 Calendar Days of the date of the letter of invitation.

(b) Failure to submit the required credit underwriting fee by the specified deadline shall result in withdrawal of the invitation and issuance of an invitation to the next eligible Applicant as outlined in the RRLP Application instructions.

(4) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer, Syndicator, General Contractor, and, if an ALF, the service provider(s), as well as other members of the Development team.

(5) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting.

(6) The Applicant will be responsible for all fees in connection with the documentation submitted to the Credit Underwriter.

(7) If the Credit Underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of the Credit Underwriter's expertise, the fee for such services shall be borne by the Applicant.

(8) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed property's financial feasibility. Appraisals which have been ordered and submitted by third party credit enhancers, first mortgagors or syndicators and which meet the above

requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal referenced above. The market study must be completed by a disinterested party who is approved by the Credit Underwriter. The Credit Underwriter shall consider the market study, the Development's financial impact on Developments in the area previously funded by the Corporation, and other documentation when making its recommendation of whether to approve or disapprove a loan. The Credit Underwriter shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(9) Applicants may elect to have the RRLP loan underwritten to a minimum debt service coverage (DSC) ratio of 1.0 or have the loan underwritten without a minimum required DSC ratio, as outlined below:

(a) If the Applicant elects to have the loan underwritten to a minimum DSC of 1.0, the proposed Development must demonstrate, based on current rates, that it can meet a minimum 1.0 DSC requirement for the RRLP mortgages and all superior mortgages.

(b) If the Applicant elects to have the loan underwritten without a minimum DSC ratio, the Corporation will set the amount of the RRLP loan so that a minimum percentage of the Developer fee is deferred for permanent financing. The minimum percentage of the Developer fee that must be deferred is the remainder of 100 percent minus the sum of the percentage of units set aside for ELI Households and 60% of the remaining percent. For example, if 20 percent of the units are set aside for ELI Households, the minimum percentage of Developer fee that must be deferred is the

remainder of 100 percent minus the sum of 20 percent and 60 percent of the remaining 80 percent, which equals 32 percent (100% - (20% +(60% of 80%))).

(10) The Corporation's assigned Credit Underwriter shall require a guaranteed maximum price or stipulated sum construction contract, which may include change orders for changes in cost or changes in the scope of work, or both, if all parties agree, and shall order, at the Applicant's sole expense, a pre-construction analysis for all new construction or a physical needs assessment for Substantial Rehabilitation and a review of the Development's costs.

(11) In addition to operating expenses, the Credit Underwriter must include an estimate for replacement reserves and operating expense reserves deemed appropriate by the Credit Underwriter when calculating the final net operating income available to service the debt. A minimum amount of $200 per unit must be used for all Developments. However, the amount may be increased based on a physical needs assessment. An Applicant may choose to fund a portion of the replacement reserves at closing. The amount cannot exceed 50% of the required replacement reserves for 2 years and must be placed in escrow at closing.

(12) The Credit Underwriter may request additional information, but at a minimum the following will be required during the underwriting process:

(a) For credit enhancers, audited financial statements for their most recent fiscal year ended, if published; otherwise the previous year's audited statements will be provided until the current statements are published or credit underwriting is complete. The audited statements may be waived if the credit enhancer is rated at least "A-" by Moody's, Standard and Poor's or Fitch.

(b) For the Applicant, general partner(s), and guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter in accordance with Part III, Sections 604 through 607, of the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective November 6, 2003, which is incorporated by reference and available on the Corporation's Website under the Rental Recovery Loan Program Application and Instructions link, and the two most recent year's tax returns. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(c) For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(13) The Credit Underwriter shall consider the following when determining the need for construction completion guarantees:

(a) Liquidity of the guarantor.

(b) Developer and General Contractor's history in successfully completing Developments of similar nature.

(c) Problems encountered previously with Developer or contractor.

(d) Exposure of Corporation funds compared to Total Development Cost.

At a minimum, the Credit Underwriter shall require a personal guarantee for completion of construction from the principal individual or the corporate general partner of the borrowing entity. In addition, a letter of credit or payment and performance bond will be required if the Credit Underwriter determines after evaluation of paragraphs (a)-(d) in this subsection that additional surety is needed. However, a completion guarantee will not be required if funds are not drawn until evidence of lien free completion is provided.

(14) The Developer fee and General Contractor's fee shall be limited to:

(a) The Developer fee shall be limited to 18% of Development Cost. A Developer fee on the building acquisition cost shall be limited to 4% of the cost of the building exclusive of land. However, the Developer fee shall be limited to 10% of Development Cost for those Developments involving Substantial Rehabilitation of buildings which have received a Corporation funding commitment or a Preliminary Allocation/Determination for other construction work within fourteen years of the Application Deadline.

(b) The General Contractor's fee shall be limited to a maximum of 14% of the actual construction cost.

(15) In order for the General Contractor to be eligible for the maximum fee stated above, it must meet the following conditions:

(a) A Development superintendent must be employed by the General Contractor and the costs of that employment must be charged to the general requirements line item of the General Contractor's budget;

(b) Development construction trailer and other overhead must be paid directly by the General Contractor and charged to general requirements;

(c) Building permits must be issued in the name of the General Contractor;

(d) Payment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit) must be issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.;

(e) None of the General Contractor duties to manage and control the construction of the Development may be subcontracted; and

(f) Not more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

(16) The Credit Underwriter shall require an operating deficit guarantee, to be released upon achievement of 1.0 debt service coverage for a minimum of 6 consecutive months for the combined RRLP loan and superior mortgages.

(17) Contingency reserves which total no more than 5% of hard and soft costs for new construction and no more than 15% of hard and soft costs for Substantial Rehabilitation may be included within the Total Development Cost for Application and underwriting purposes. Contingency reserves shall not be paid from RRLP funds.

(18) The Credit Underwriter will review and determine if the number of loans and construction commitments of the Applicant and its Principals will impede its ability to

proceed with the successful development of each proposed Corporation-funded Development.

(19) All items required by the Credit Underwriter must be provided to the Credit Underwriter within 35 Calendar Days of notification from the Credit Underwriter. The Applicant will have an additional 25 Calendar Days to submit the appraisal, survey and final plans to the Credit Underwriter. Unless an extension is approved by the Corporation, failure to submit the required credit underwriting information by the specified deadlines shall result in withdrawal of the preliminary commitment and the funds will be made available as outlined in the RRLP Application instructions.

(20) If the Credit Underwriter requires additional clarifying materials in the course of the underwriting process, the Credit Underwriter shall request same from the Applicant and shall specify deadlines for the submission of same. Failure to submit required information by the specified deadline, unless a written extension of time has been approved by the Corporation, shall result in rejection of the Application. If the Application is rejected, the Corporation will make the funds available as outlined in the RRLP Application instructions.

(21) The Credit Underwriter shall complete its analysis and submit a written draft report and recommendation to the Corporation. Upon receipt, the Corporation shall provide to the Applicant the section of the written draft report consisting of supporting information and schedules. The Applicant shall review and provide written comments to the Corporation and Credit Underwriter within 48 hours of receipt. After the 48 hour period, the Corporation shall provide to the Credit Underwriter comments on the draft report and, as applicable, on the Applicant’s comments. Then, the Credit Underwriter

shall review and incorporate, if deemed appropriate, the Corporation's and Applicant's comments and release the revised report to the Corporation and the Applicant. Any additional comments from the Applicant shall be received by the Corporation and the Credit Underwriter within 72 hours of receipt of the revised report. Then, the Credit Underwriter will provide a final report, which will address comments made by the Applicant, to the Corporation.

(22) The Credit Underwriter's recommendations will be sent to the Board for approval.

(23) After approval of the Credit Underwriter's recommendation for funding by the Board, the Corporation shall issue a firm RRLP loan commitment.

(24) Other mortgage loans related to the Development and the RRLP loan must close within 60 Calendar Days of the date of the firm RRLP loan commitment unless an extension is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The written request will then be submitted to the Corporation's Board for consideration. The Corporation shall charge an extension fee of one-half of one percent of the total RRLP funding amount if the Board approves the request to extend the commitment beyond the period outlined in this rule chapter.

(25) At least 5 Calendar Days prior to the RRLP loan closing:

(a) The Applicant must provide evidence of all necessary consents or required signatures from superior or subordinate mortgagees to the Corporation and its counsel, and

(b) The Credit Underwriter must have received all items necessary to release its letter confirming that all closing contingencies have been met, including the finalized sources and uses of funds and Draw schedule.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-14 Miscellaneous Criteria.**

(1) Total Development Cost includes the following:

(a) The cost of acquiring real property and any buildings thereon, including payment for options, deposits, or contracts to purchase properties.

(b) The cost of site preparation, demolition, and development.

(c) Any expenses relating to the issuance of tax-exempt bonds or taxable bonds, if any, related to the particular Development.

(d) Fees in connection with the planning, execution, and financing of the Development, such as those of architects, engineers, attorneys, accountants, Developer fee, and the Corporation.

(e) The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction, Substantial Rehabilitation, or reconstruction of the Development.

(f) The cost of the construction, Substantial Rehabilitation, and equipping of the Development.

(g) The cost of land improvements, such as landscaping and offsite improvements related to the Development, whether such costs are paid in cash, property, or services.

(h) Expenses in connection with initial occupancy of the Development.

(i) Allowances for working capital, contingency reserves, and reserves for any anticipated operating deficits during the first 2 years after completion of the Development.

(j) The cost of such other items, including relocation costs, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for the Corporation's bonds, for the construction or Substantial Rehabilitation of the Development.

(2) In determining the income standards of Eligible Persons for its various programs, the Corporation shall take into account the following factors:

(a) Requirements mandated by federal law.

(b) Variations in circumstances in the different areas of the state.

(c) Whether the determination is for rental housing.

(d) The need for family size adjustments to accomplish the purposes set forth in this rule chapter.

(3) Financial Beneficiary, as defined in this rule chapter, does not include third party lenders, third party management agents or companies, Housing Credit Syndicators, credit enhancers who are regulated by a state or federal agency and who do not share in the profits of the Development or contractors whose total fees are within the limit described in this rule chapter.

(4) For computing any period of time allowed by this rule, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal

holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-15 General Program Procedures and Restrictions.**

(1) RRLP funding must be used in conjunction with Corporation-issued Tax-Exempt Multifamily Mortgage Revenue Bonds (MMRB) or Local Government-issued Tax-Exempt Bonds, as outlined in the RRLP Application instructions. An Applicant is not eligible to apply for RRLP funding if any of the following pertain to the proposed Development:

(a) Construction or construction-permanent financing of the costs associated with construction or Substantial Rehabilitation of the Development, including tax-exempt bonds or conventional financing with conversion clauses, has closed as of July 13, 2005;

(b) The Applicant has received an allocation of Housing Credits for the proposed Development, unless the Applicant has also applied or is applying for Corporation-issued tax exempt bonds or provides evidence of a Local Government-issued tax exempt bond commitment as stated in the RRLP Application instructions;

(c) RRLP funds shall not be used in conjunction with funds from the SAIL, state-issued HOME-Rental or Competitive HC Programs.

(2) The RRLP Minimum Set-Aside Requirements are:

(a) At least 15 percent of the total units must be held for ELI Households for a period of 20 years. Following the 20-year ELI affordability period, the ELI Set-Aside will then convert to serve families at or below 60 percent of the area median income; and

(b) At least 70% of the total units must be set aside for residents with annual household incomes at or below 60% of the area median income.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-16 Additional Application Ranking and Selection Procedures.**

(1) RRLP funds shall be allocated in accordance with the ranking and selection process set forth in the RRLP Application Package.

(2) The Corporation shall assign, in order of ranking, tentative loan amounts to the Applications in each demographic category, up to the total amount available.

(3) Selection for RRLP Program participation is contingent upon fund availability at the conclusion of all litigation and appeals proceedings as set forth in this rule chapter.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-17 Terms and Conditions of Loans.**

(1) The RRLP funds shall be used for the construction or Substantial Rehabilitation, with or without acquisition, of affordable, safe and sanitary multifamily rental housing units.

(2) The RRLP loans may be in a first, second, or other subordinated lien position. For purposes of this rule chapter, mortgages securing a letter of credit as credit enhancement for the bonds financing the first mortgage shall be considered a contingent liability and part of the first mortgage lien, provided that the Applicant’s counsel furnishes an opinion regarding the contingent nature of such mortgage satisfactory to the Corporation and its counsel.

(3) The base loan shall be non-amortizing and shall have interest rates as follows:

(a) 0% simple interest per annum on the pro-rata portion of the base loan attributable to ELI units over the life of the loan; and

(b) 3% simple interest per annum on the pro-rata portion of the base loan attributable to non-ELI units.

(4) The supplemental loan shall be non-amortizing and shall be based on each ELI unit at 0% simple interest per annum with the principal forgivable provided the units for which the supplemental loan amount is awarded are targeted to ELI Households for at least 20 years.

(5) The annual interest payment shall be based upon the Development Cash Flow, as determined pursuant to the RRLP Cash Flow Reporting Form RRLP-1. Any distribution or payment to the Principal(s) or any Affiliate of the Principal or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining debt service coverage in the Board approved final credit underwriting report, will be added back to the amount of cash available for the RRLP loan interest payment, as calculated in the RRLP Cash Flow Reporting Form RRLP-1, for the purpose of determining interest due. Interest may be deferred as set forth in this rule chapter without constituting a default on the loan.

(6) If the RRLP loan is not a first mortgage loan, each year, subject to the provisions of subsection (8) below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) All superior mortgage fees and debt service;

(b) Development Expenses on the RRLP loan, including up to 20% of total Developer fees per year;

(c) Interest payment on RRLP loan balance;

(d) Interest payments on the RRLP loan deferred from previous years;

(e) Mandatory payment on subordinate mortgages.

After the full RRLP loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

(7) If the RRLP loan is secured by a first mortgage lien, each year, subject to the provisions of subsection (8) below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) First mortgage fees and interest payment on RRLP loan balance;

(b) Development Expenses on the RRLP loan including up to 20% of total Developer fees per year;

(c) Interest payments on the RRLP loan deferred from previous years;

(d) Mandatory payment on subordinate mortgages.

After the full RRLP loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

(8) The determination of Development Cash Flow, determination of payment priorities, and payment of interest on RRLP loans shall occur annually. Any payments of accrued and unpaid interest due annually on RRLP loans shall be deferred to the extent that Development Cash Flow is insufficient to make said payments pursuant to the payment priority schedule established in this rule chapter. If Development Cash Flow is under-reported and such report causes a deferral of RRLP interest, such under-reporting

shall constitute an event of default on the RRLP loan. A penalty of 5% of any required payment shall be assessed.

(a) By May 31 of each year of the RRLP loan term, the Applicant shall provide the Corporation with audited financial statements and a certification detailing the information needed to determine the annual payment to be made. However, this certification requirement will be waived until May 31 following the calendar year within which the first unit is occupied. The certification shall require submission of audited financial statements and the RRLP annual reporting form, Cash Flow Reporting Form RRLP-1, effective 6/05, which is incorporated by reference. Form RRLP-1 can be obtained from the Credit Underwriter acting as the assigned servicer or on the Corporation's Website under the Rental Recovery Loan Program Application and Instructions link. The audited financial statements are to be prepared in accordance with generally accepted accounting principles for the 12 months ended December 31 and shall include:

1. Comparative Balance Sheet with prior year and current year balances;
2. Statement of revenue and expenses;
3. Statement of changes in fund balances or equity;
4. Statement of cash flows; and
5. Notes.

The financial statements referenced above should also be accompanied by a certification of the Applicant as to the accuracy of such financial statements. A late fee of $500 will be assessed by the Corporation for failure to submit the required audited financial statements and certification by May 31 of each year of the RRLP loan term. Failure to

submit the required audited financial statements and certification by May 31 of each year of the RRLP loan term shall constitute an event of default on the RRLP loan. 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 without limitation, monthly statements with respect to the Development.

(b) The Corporation servicer shall issue a billing for interest due on the RRLP loan for the immediately preceding calendar year by July 31 of each calendar year of the RRLP loan.

(c) The Applicant shall remit the interest due to the Corporation servicer no later than August 31 of each year of the RRLP loan term. The first payment of RRLP interest will be due no later than August 31 following the calendar year within which the first unit is occupied. The first payment of interest shall include all interest for the period which begins accruing on the date of the first Draw and ends on December 31 of the calendar year during which the first unit is occupied.

(9) After maturity or acceleration, the Note shall bear interest at the default interest rate, pursuant to the loan documents, from the due date until paid. Unless the Corporation has accelerated the RRLP loan, the Applicant shall pay the Corporation a late charge of 5% of any required payment that is not received by the Corporation within 15 days of the due date.

(10) Any sale, conveyance, assignment, or other transfer of interest or the grant of a security interest in all or any part of the title to the Development shall be subject to the Corporation's prior written approval.

(11) The final billing for the purpose of payoff of the RRLP loan shall also include a billing for compliance fees to cover monitoring of RRLP Program requirements beyond the maturity date of the Note. Such fees shall be computed by determining the present value of the annual compliance monitoring fee and multiplying that by the number of years remaining in the affordability period beyond the repayment date. The present value discount rate shall be 2.75% per annum. Such amount shall be reduced by the amount of any compliance monitoring fees for other programs collected by the Corporation for the Development provided the compliance monitoring fee covers some or all of the period following the anticipated RRLP loan repayment date.

(12) The RRLP loans shall be serviced either directly by the Corporation or by the servicer on behalf of the Corporation.

(13) The Corporation shall monitor compliance of all terms and conditions of the RRLP loans and shall require that certain terms and conditions be embodied in the Land Use Restriction Agreement and 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 RRLP loans shall constitute a default during the term of the RRLP loans. The Corporation shall take legal action to effect compliance if a violation of any term or condition relative to the set-asides committed to by the Applicant is discovered during the course of compliance monitoring or by any other means.

(14) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective

November 3, 2003, which is adopted and incorporated herein by reference and available on the Corporation's Website under the Rental Recovery Loan Program Application and Instructions link.

(15) The RRLP base loan term shall be for a period of 15 years or such amount of time commensurate with the investment requirements associated with the Housing Credit syndication. The loan term may also exceed 15 years as required by the Federal National Mortgage Association whenever it is participating in the financing of the Development, or if otherwise approved by the Board. The supplemental loan term shall be for a period of 20 years.

(16) Upon maturity of the RRLP loan, the Corporation may renegotiate and extend the loan in order to extend the availability of housing for the target population. Such extensions shall be based upon:

(a) Performance of the Applicant during the RRLP loan term;

(b) Availability of similar housing stock for the target population in the area;

(c) Documentation and certification by the Applicant that funds are not available to repay the Note upon maturity;

(d) A plan for the repayment of the loan at the new maturity date; and

(e) Assurance that the security interest of the Corporation will not be jeopardized by the extension.

(17) After accepting a preliminary commitment, the Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any mortgage superior or inferior to the RRLP mortgage without prior approval of the Corporation's Board of Directors. However, an Applicant may reduce the interest rate on any superior or inferior

mortgage loan without the Board's permission, provided that no other terms of the loan are changed. The Corporation must be notified of any such change.

(a) The Board shall approve requests for mortgage loan refinancing only if Development Cash Flow is improved, the Development's economic viability is maintained, the security interest of the Corporation is not adversely affected, and the Credit Underwriter provides a positive recommendation.

(b) The Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in this rule chapter are met, the original combined loan to value ratio for the superior mortgage and the RRLP mortgages is maintained or improved, and a proportionate amount of the increase in the superior mortgage is used to reduce the outstanding RRLP base loan balance. To calculate the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the RRLP loan balance, the following calculation shall be used: divide the amount of the original RRLP mortgage by the combined amount of the original RRLP mortgage and the original superior mortgage; then multiply the quotient by the amount of the increase in the superior mortgage after deducting refinancing costs. For example, if the amount of the original RRLP mortgage is $2,000,000, the original superior mortgage is $4,000,000, but the current balance is $3,000,000, the proposed new superior mortgage is $5,000,000, and refinancing costs are $200,000, then the amount of the increase in the superior mortgage after deducting refinancing costs would be $1,800,000, and the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the RRLP loan balance would be $594,000. This $594,000 would be applied first to accrued interest and then to principal.

(c) The Board shall deny requests for mortgage loan refinancing which require extension of the RRLP loan term or otherwise adversely affect the security interest of the Corporation unless the criteria outlined in this rule chapter are met, the Credit Underwriter recommends that the approval of such a request is crucial to the economic survival of the Development or unless the Board determines that public policy will be better served by the extension as a result of the Applicant agreeing to further extend the Compliance Period or provide additional amenities or resident programs suitable for the resident population. Further, the Board shall limit any approved extension to a minimum term which makes the Development feasible and which does not exceed an industry standard term.

(18) All RRLP loans shall be in conformance with applicable federal and state statutes, including the Fair Housing Act as implemented by 24 CFR Part 100, which is adopted and incorporated herein by reference and available at http://www.access.gpo.gov/nara/cfr/waisidx_05/24cfr100_05.html, and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35, which is adopted and incorporated herein by reference and available at http://www.access.gpo.gov/nara/cfr/waisidx_04/28cfr35_04.html. The Corporation shall allow units dedicated to occupancy by the Elderly in a Development designed for occupancy by elderly households pursuant to authorization by HUD under the Fair Housing Amendments of 1988 as implemented by 24 CFR Part 100.

(19) All set-aside units shall be RRLP Rent-Restricted Units. A unit set aside at a particular income and rent level must house a tenant who satisfies the income requirement. Additionally, Section 8 voucher holders may not be used to satisfy the ELI

Set-Aside requirement, unless those households' vouchers are paying rents only up to the ELI rent level.

(20) The documents creating, evidencing or securing each RRLP loan must provide that any violation of the terms and conditions described in this rule chapter constitutes a default under the RRLP loan documents allowing the Corporation to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.

(21) A failure to pay any principal or interest due under the terms of this section shall constitute a default on the RRLP loan.

(22) The Applicant shall provide to the Corporation an annual budget of income and expenses for the Development, certified as accurate by an officer of the Development, no later than 30 days prior to the beginning of the Development's fiscal year.

(23) The Compliance Period for a RRLP Development shall be, at a minimum, a period of 50 years from the date the first residential unit is occupied. For Developments which contain occupied units to be Substantially Rehabilitated, the Compliance Period shall begin not later than 60 days from the termination of the last annual lease in effect at the time of loan closing.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-18 Sale or Transfer of a Development.**

(1) The RRLP loans shall be assumable upon sale or transfer of the Development if the following conditions are met:

(a) The proposed transferee meets all specific Applicant identity criteria which were required as conditions of the original loan;

(b) The proposed transferee agrees to maintain all set-asides and other requirements of the RRLP loans for the period originally specified or longer; and

(c) The proposed transferee and release of transferor receives a favorable recommendation from the Credit Underwriter and approval by the Board of Directors of the Corporation.

(2) If the RRLP loan is not assumed since the buyer does not meet the criteria for assumption of the loan, the loan (principal and any outstanding interest) shall be repaid from the proceeds of the sale in the following order of priority:

(a) First mortgage debt service, first mortgage fees;

(b) RRLP compliance and loan servicing fees;

(c) An amount equal to the present value of the compliance monitoring fee, as computed by the Corporation and its servicer, times the number of payment periods remaining in the affordability period beyond the repayment date. The present value discount rate shall be 2.75% per annum. Such amount shall be reduced by the amount of any compliance monitoring fees collected by the Corporation for the Development, provided the compliance monitoring fee covers some or all of the period following the anticipated RRLP repayment date.

(d) Unpaid principal balance of the RRLP loan;

(e) Any interest due on the RRLP loan;

(f) Expenses of the sale;

(g) If there will be insufficient funds available from the proposed sale of the Development to satisfy paragraphs (2)(a)-(f) above, the RRLP loan shall not be satisfied until the Corporation has received:

1. An appraisal prepared by an appraiser selected by the Corporation or the Credit Underwriter indicating that the purchase price for the Development is reasonable and consistent with existing market conditions;

2. A certification from the Applicant that the purchase price reported is the actual price paid for the Development and that no other consideration passed between the parties and that the Development Cash Flow reported to the Corporation during the term of the RRLP loan was true and accurate;

3. A certification from the Applicant that there are no Development funds available to repay the RRLP loan, including any interest due, and the Applicant knows of no source from which funds could or would be forthcoming to pay the RRLP loan; and

4. A certification from the Applicant detailing the information needed to determine the final billing for RRLP loan interest. Such certification shall require submission of financial statements and other documents that may be required by the Corporation and its servicer.

Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.

**67ER05-19 Construction Disbursements and Permanent Loan Servicing.**

(1) RRLP loan proceeds shall be disbursed during the construction phase in an amount per Draw which does not exceed the ratio of the RRLP loan to the Total Development Cost, unless approved by the Credit Underwriter.

(2) Ten business days prior to each Draw, the Applicant shall supply the Corporation's servicer, as agent for the Corporation, with a written request executed by the Applicant for a Draw. The request shall set forth the amount to be paid and shall be accompanied by documentation specified by the Corporation's servicer including claims for labor and materials to date of the last inspection.

(3) The Corporation and its servicer shall review the request for a Draw, and the servicer shall provide the Corporation with approval of the request or an alternative recommendation, after the title insurer provides an endorsement to the policy of title insurance updating the policy to the date of the current Draw and increasing the insurance coverage to an amount equal to the sum of all prior Draws and the current Draw, without additional exceptions, except those specifically approved in writing by the Corporation.

(4) The Corporation will disburse construction Draws through Automated Clearing House (ACH). The Applicant may request disbursement of construction Draws via a wire transfer. The Applicant will be charged a fee of $10 for each wire transfer requested. This charge will be netted against the Draw amount.

(5) The Corporation shall elect to withhold any Draw or portion of any Draw, notwithstanding any documentation submitted by the Applicant in connection with the request for a Draw, if

(a) The Corporation or the Corporation's servicer determines at any time that the actual cost budget or progress of construction differs from that as shown on the loan documents; or

(b) The percentage of progress of construction of the improvements differs from that shown on the request for a Draw.

(6) The servicer may request submission of revised construction budgets.

(7) If the Corporation determines that further analysis by the Credit Underwriter is required prior to the release of the final Draw, the Applicant shall pay to the Credit Underwriter a fee based on an hourly rate determined pursuant to the contract between the Corporation and the Credit Underwriter.

(8) Retainage in the amount of 10% per Draw shall be held by the servicer during construction until the Development is 50% complete. At 50% completion, no additional retainage shall be held from the remaining Draws. Release of funds held by the Corporation's servicer as retainage shall occur pursuant to the RRLP loan agreement. Specific Authority s. 3, ch. 2005-92, L.O.F. Law Implemented s. 2 and 3, ch. 2005-92, L.O.F. History – New 7-13-05.