

defining Lower Income Residents. (See section 142 of the Code.) If Taxable Bonds, other than Taxable Bonds issued simultaneously with Tax-Exempt Bonds, in which case the above referenced provisions apply, or Bonds that do not require State Bond Allocation are being used to finance the Development, Lower Income Residents shall be defined as an individual or family with an Annual Household Income not in excess of 80 percent of the state or county median income, whichever median income is higher. In the event Bonds are issued on behalf of a corporation organized under section 501(c)(3) of the Code, the Set-Aside shall not be less than that required by the 501(c)(3) documents.

(67) "Mortgage" means the instrument securing the Loan which creates a first, co-equal or acceptable subordinate lien on the Development, subject to permitted encumbrances.

(68) "Mortgage Loan" means the Loan secured by the Mortgage and evidenced by a Note or Mortgage Note.

(69) "Note" means a unilateral agreement containing an express and absolute promise to pay to Florida Housing a principal sum of money for the Loan together with interest on a specified date. The Note will provide the interest rate and will be secured by a mortgage.

(70) "Preservation Development" means an existing Development currently subject to documented rent restrictions or income restrictions through a federal, state or local government affordable housing program, where the rent restrictions or income restrictions for the Development will end within five years.

(71) "Principal" means any individual acting in their individual capacity or acting as president, vice president, treasurer or secretary, member of the board of directors or the legal or beneficial owner of 10% or more of any class of stock of a corporation which is a general partner of a limited partnership Applicant or Developer; or the general partner of a limited partnership that is the general partner of a limited partnership Applicant or Developer; or is a partner in a general partnership or joint venture acting alone or as a part of another entity that is an Applicant or Developer. With respect to a limited liability company either acting alone or as a part of another entity that is an Applicant or Developer, each manager and each member is a principal. With respect to a registered limited liability partnership either acting alone or as a member of another entity that is an Applicant or Developer, each partner is a principal. With respect to a trust either acting alone or as a part of another entity that is an Applicant or Developer, any individual or entity owning 10% or more of the beneficial interest in the trust is a principal. A General Contractor, management agent, architect/engineer, attorney that participates on an arms-length fee arrangement are not considered Principals of the Applicant entity.

(72) "Private Placement" or "Limited Offering" means the sale of Florida Housing Bonds directly or through an underwriter or placement agent to 35 or fewer initial purchasers who are not purchasing the Bonds with the intent to offer the Bonds for retail sale and who are Qualified Institutional Buyers.

(73) "Program" means Florida Housing's Multifamily Mortgage Revenue Bond (MMRB) Program.

(74) "Program Documents or Loan Documents" means the Loan Commitment, Loan Agreement, Note, Mortgage, Credit Enhancement or Guarantee Instrument, Land Use Restriction Agreement, Trust Indenture, Preliminary and Final Official Statements, Intercreditor Agreement,

Assignments, Bond Purchase Agreement, Compliance Monitoring Agreement, Mortgage Servicing Agreement and such other ordinary and customary documents necessary to issue and secure repayment of the Bonds and Mortgage sufficient to protect the interests of the Bond owners and Florida Housing.

(75) "Program Report" or "Form PR-1" means the report format which is required to be completed and submitted to Florida Housing pursuant to this rule chapter, and is adopted and incorporated herein by reference, effective October 2002. A copy of such form is available on FHFC's web site at [www.floridahousing.org](http://www.floridahousing.org).

(76) "Public Policy Criteria and Qualified Resident Programs" means the requirements and guidelines established by Florida Housing and set forth in Rule 67-21.0041, F.A.C., and the Universal Application package. The programs and requirements shall be incorporated in the Loan Commitment and Program Documents. Such Public Policy Criteria and Qualified Resident Programs have been adopted for the purpose of accomplishing the programmatic goals of the Code, Florida Housing and the Act.

(77) "Qualified Institutional Buyer" is sometimes called a "sophisticated investor" and specifically includes the following:

(a) Any of the following entities, acting for its own account or the accounts of other Qualified Institutional Buyers that, in the aggregate, own and invest on a discretionary basis at least \$100 million in securities of issuers that are not affiliated with the entity:

1. Any insurance company as defined in section 2(13) of the Securities Exchange Act, which is adopted and incorporated herein by reference;

2. Any investment company registered under the Investment Company Act or any business development company as defined in section 2(a)(43) of that Act, which is adopted and incorporated herein by reference;

3. Any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958, which is adopted and incorporated herein by reference;

4. Any plan established and maintained by a state or state agency or any of its political subdivisions, on behalf of their employees;

5. Any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, which is adopted and incorporated herein by reference;

6. Trust funds of various types, except for trust funds that include participants' individual retirement accounts or H.R. 10 plans;

7. Any business development company as defined in section 202(a)(22) of the Investment Advisors Act of 1940, which is adopted and incorporated herein by reference;

8. Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation (except a bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities and Exchange Act, which is adopted and incorporated herein by reference, or a foreign bank or savings and loan or similar institution), partnership, Massachusetts or similar business trust, or any investment adviser registered under the Investment Advisors Act, which is adopted and incorporated herein by reference.

(b) Any dealer registered under section 15 of the Securities Exchange Act, which is adopted and incorporated herein by reference, acting on its own behalf or on the

behalf of other Qualified Institutional Buyers who in the aggregate own and invest at least \$10 million of securities of issuers not affiliated with the dealer (not including securities held pending public offering).

(c) Any dealer registered under section 15 of the Securities Exchange Act, which is adopted and incorporated herein by reference, acting in a riskless principal transaction on behalf of a Qualified Institutional Buyer.

(d) Any investment company registered under the Investment Company Act, which is adopted and incorporated herein by reference, that is part of a family of investment companies that together own at least \$100 million in securities of issuers, other than companies with which the investment company or family of investment companies is affiliated.

(e) Any entity, all of whose equity owners are Qualified Institutional Buyers.

(f) Any bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities Exchange Act, which is adopted and incorporated herein by reference, or foreign bank or savings and loan or similar institution that, in aggregate with the other Qualified Institutional Buyers, owns and invests in at least \$100 million in securities of affiliates that are not affiliated with it and that has an audited net worth of at least \$25 million as demonstrated during the 16 to 18 months prior to the sale.

(78) "Qualified Census Tract" or "QCT" means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50% or more of the households at an income which is less than 60% of the area median gross income, or a poverty rate of at least 25%, in accordance with section 42(d)(5)(C) of the Code. A list of the 2003 Florida QCTs is adopted and incorporated herein by reference. A copy of such list is available on FHFC's web site [www.floridahousing.org](http://www.floridahousing.org). The United States Department of Housing and Urban Development maintains the official QCT list. The incorporated Florida QCT list is designed to assist the Applicant in the Application process. Applicants are responsible for providing Florida Housing with accurate QCT information.

(79) "Qualified Lending Institution" means any lending institution designated by Florida Housing.

(80) "Qualified Project Period" means the period of time, as provided in the Code, that a Development financed with Tax-exempt Bonds must comply with the Lower Income Tenant Set-Aside.

(81) "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.

(82) "Rehabilitation Development" means a Development, the Rehabilitation Expenditures with respect to which equal or exceed 15% of the portion of the cost of acquiring such Development to be financed with Bond proceeds.

(83) "Rehabilitation Expenditures" has the meaning set forth in section 147(d)(3) of the Code.

(84) "Scattered Sites" means two or more parcels in the same county, contiguous to one another, sharing at least one common boundary between them, or within such reasonable proximity to each other as to appear to the public to be under the dominion and control of the Applicant.

(85) "Set-Aside" means the occupancy requirements or

restrictions for Developments financed by Florida Housing. Such Set-Aside requirements shall be set forth in the Land Use Restriction Agreement and other such Program Documents as are deemed necessary by Florida Housing. The minimum Set-Aside requirements are as follows:

(a) For Taxable Bonds — 20 percent or more of the residential units in the Development shall be occupied or held available for occupancy by a Family whose Annual Household Income does not exceed 80 percent of the state or county median income, whichever median income is higher, provided, however, that if such taxable bonds are being issued in connection with Tax-exempt Bonds, the requirement of (b) below shall govern.

(b) For Tax-exempt Bonds — 20 percent or more of the residential units in the Development shall be occupied or held available for occupancy by a Family whose Annual Household Income does not exceed 50 percent of the state or county median income, whichever is higher, or 40 percent or more of the residential units in the Development shall be occupied by or held available for a Family whose Annual Household Income does not exceed 60 percent of the state or county median income, whichever is higher, or that which is required by the Code at the time of issuance of the Bonds or required by Florida Housing to meet its programmatic purposes.

(86) "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.

(87) "Special Counsel" means any attorney or law firm retained by Florida Housing, pursuant to an RFQ, to serve as counsel to Florida Housing, including Disclosure Counsel.

(88) "State Board of Administration" or "SBA" means the State Board of Administration created by and referred to in s. 9, Article XII of the State Constitution.

(89) "State Bond Allocation" means the allocation of the State private activity bond volume limitation pursuant to Chapter 159, Part VI, F.S., administered by the Division of Bond Finance and allocated to Florida Housing for the issuance of its Tax-exempt Bonds.

(90) "State Office on Homelessness" means the office created within the Department of Children and Family Services under Section 420.622, F.S.

(91) "Student" means an individual who is considered a full-time student by the educational institution being attended or will be a full-time student at an educational institution with regular facilities and students other than correspondence school, during five months of the certification year.

(92) "Taxable Bonds" means those Bonds on which the interest earned is included in gross income of the owner for federal income tax purposes pursuant to the Code.

(93) "Tax-exempt Bonds" means those Bonds on which all or part of the interest earned is excluded from gross income of the owner for federal income tax purposes pursuant to the Code.

(94) "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 Scattered Site Developments, the Applicant must select a single point on one Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed

Development.

(95) "TEFRA Hearing" means a public hearing held pursuant to the requirements of the Code and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA), section 147(f) of the Code, at which members of the public or interested persons are provided an opportunity to present evidence or written statements or make comments regarding a requested application for Tax-exempt financing of a Development by Florida Housing.

(96) "Total Development Cost" means the sum total of all costs incurred in the construction of a Development, all of which shall be subject to the approval by the Credit Underwriter and shall be approved by Florida Housing as reasonable and necessary. Such costs may include:

(a) The cost of acquiring real property and any building 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 by Florida Housing 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, Financial Advisors and Florida Housing. The fees for attorneys and Financial Advisors are limited pursuant to subsection 67-21.002(43), F.A.C.

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

(f) The cost of the construction, 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 established by Florida Housing for working capital or contingency reserves, and reserves for any anticipated operating deficits during the first two years after completion of construction of the Development.

(j) The cost of other such items, including relocation costs, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for Bonds, as the Corporation shall determine to be reasonable and necessary for the construction or rehabilitation of the Development.

(97) "Universal Application Package" or "UA1016" Rev. 8-03 means the forms and instructions, obtained from Florida Housing at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, which shall be completed and submitted to Florida Housing in accordance with this rule chapter in order to apply for the Program. The Universal Application Package is adopted and incorporated herein by reference, effective on the date of the latest amendment to this rule chapter.

(98) "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) or area designated as a 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.

*Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.503, 420.507, 420.508 FS. History—New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 2-6-97, 1-7-98, Formerly 91-21.002, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 10-5-03.*

#### **67-21.003 Application and Selection Process for Loans.**

(1) 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 rejection of the Application or a score less than the maximum available 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 Universal 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 7 Calendar Days of the date of receipt of the preliminary scores, 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 9 Calendar Days of receipt of the notice set forth in subsection (5) above, 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. Where specific pages of the Application are revised, changed or added, each new page(s) must be marked as "revised," and submitted. Failure to mark each new page(s) "revised" will result in the Corporation not considering the revisions, changes or additions to that new