

67-53.003 Compliance Procedures.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4), (13), (14), 420.508, 420.509 FS. History–New 1-7-98, Formerly 9I-21.016, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Formerly 67-21.016, Repealed 8-20-09.

67-53.0035 Florida Housing Finance Corporation.

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

Rulemaking Authority 420.507(12), 420.508(3)(a) FS. Law implemented 420.507(4), (13), (14), 420.508, 420.509 FS. History–New 8-20-09.

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

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

Rulemaking Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History–New 10-2-89, Formerly 9I-32.010, Amended 11-9-98, 1-2-00, Repromulgated 12-31-00, Amended 3-17-02, Repromulgated 5-5-03, Formerly 67-32.010, Amended 8-20-09.

67-53.005 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

Specific Authority 420.9072(9) FS. Law Implemented 420.907, 420.9075(3)(e) FS. History–New 2-9-94, Amended 12-28-94, 1-6-98, Formerly 9I-37.015, Amended 12-26-99, 9-22-03, Formerly 67-37.015, Repealed 4-24-08.

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

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

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

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

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

(a) Any duly authorized representative of the Corporation shall be permitted at any reasonable time to inspect and monitor the records and facilities of the PLP development for compliance with the following conditions:

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

2. For multifamily rental PLP developments: The Corporation or its representative shall monitor tenant records and facilities for compliance during the Compliance Period with the following conditions:

a. All tenant records shall be maintained by the Applicant within 50 miles of the PLP development site.

b. The Corporation or its representative shall conduct on-site PLP development inspections at least annually.

c. The Corporation must approve the Applicant’s selection of a management company prior to the company assuming responsibility for the PLP development based upon the following criteria:

(i) Review of the company information including key management personnel, management experience and procedures;

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

(iii) Key management company representative attendance at a Corporation compliance workshop; and

(iv) A meeting between Corporation compliance staff and the key management company representative after the compliance workshop.

(b) The Applicant or an authorized representative, if any, shall attend a compliance training workshop or meet with a representative from the Corporation or the monitoring agent for a compliance training conference prior to initial leasing of any units.

(c) The Applicant shall maintain complete and accurate income records pertaining to each tenant occupying a set-aside unit. Records for each occupied set-aside unit shall contain at least the following documentation:

1. The tenant's application which shall contain the name or names of each household member, employment and income information for each household member, and other information required by the Applicant;
2. A copy of the lease agreement listing the term of the tenancy and each tenant residing in the unit;
3. Verification of the income of each tenant as is acceptable to prove income under Section 8 of the U.S. Housing Act of 1937, as amended;

4. Information as to the assets owned by each tenant; and

5. Tenant Income Certification Form, TIC-1, Rev. 02/06, which is hereby incorporated by reference, for each tenant. For Developments participating in Section 8 and RD Programs, the HUD Forms 50058, 50059, RD (or FmHA) Form 1944-8, which are hereby incorporated by reference, may be used in lieu of TIC-1 as long as proper documentation is maintained in the tenant files.

(d) With respect to rental PLP developments, program reports shall be submitted as follows:

1. Initial program reports for rehabilitation/acquisition PLP developments with units occupied at the time of the execution of the Invitation to Participate shall be submitted at the time of execution of the Invitation to Participate.

2. Initial program reports shall be submitted for developments with no units occupied at the time of the closing of the PLP Loan within 10 days following the end of the calendar quarter during which the leasing of any unit within the PLP development occurred.

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

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

Rulemaking Authority 420.528 FS. Law Implemented 420.528 FS. History--New 1-16-96, Formerly 9I-38.0145, Amended 3-26-98, 7-17-00, 7-21-03, Formerly 67-38.0145, Amended 8-20-09.

67-53.007 Compliance Procedures.

Rulemaking Authority 420.507 FS. Law Implemented 420.5087 FS., Chapter 93-186, Laws of Florida. History--New 1-25-94, Formerly 9I-43.011, 67-43.011, Repealed 8-20-09.

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

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

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

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

(b) An authorized representative of the Corporation will, at the Applicant’s expense, conduct a minimum of one on-site construction inspection of a non-competitive HC development which has not received any other Corporation financing. Any required re-inspection due to a finding of non-compliance will be at the Applicant’s expense.

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

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

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

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

(c) Key management company representatives attendance at a Corporation compliance workshop; and

(d) A meeting between Corporation compliance staff and the key management company representative.

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

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

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

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

(c) Verification of the income of each resident as is acceptable to prove income under Section 8 of the United States Housing Act of 1937, as in effect on the date of this rule chapter;

(d) Information as to the assets owned by each resident; and

(e) TIC-1 for each resident.

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

(a) For those developments receiving competitive HC, the initial Florida Housing Finance Corporation Program Report, PR-1, Rev. 01/09, which is hereby incorporated by reference, shall be prepared as of the last day of the calendar month during which execution of the Carryover (as defined in Rule Chapter 67-48, F.A.C.) allocation agreement occurred, if the development is occupied; or the rental of the initial unit in the development occurred, whichever is. For those developments receiving an allocation of non-competitive HC without any Corporation-issued loans, the initial PR-1 shall be prepared as of the last day of the calendar month during which final housing credit allocation occurred. Subsequent PR-1’s shall be prepared as of the last day of the calendar month. PR-1’s are due no later than the 15th of each month throughout the regulatory period. Annually, on dates assigned by the

Corporation. The monitoring agent's copy of each PR-1 shall be accompanied by TIC-1 copies for ten (10) percent of the executed TIC-1's that were effective during the reporting year. The Annual Owner's Certificate (AOC) of Housing Credit Program Compliance, Rev. 1-2009, AOC-1, which is hereby incorporated by reference, shall be signed by the owner of the HC development, certifying that for the preceding 12 month period the HC development met its Housing Credit set-aside requirements (to be sent to the Corporation only). Forms PR-1 and AOC-1 shall be provided by the Corporation and shall be submitted for all HC developments receiving Housing Credit Allocations since January 1, 1990.

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

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

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

(8) For HOME Investment Partnerships ("HOME") Rental Program, as defined in Rule Chapter 67-48, F.A.C., the initial PR-1 shall be prepared as of the last day of the calendar month during which the loan closing occurred, if the development is occupied, or the rental of the initial unit in the development occurred, whichever is later. Subsequent PR-1's shall be prepared as of the last day of each calendar month. PR-1's are due no later than the 15th of each month throughout the regulatory period. Annually, on dates assigned by the Corporation, the monitoring agent's copy of each PR-1 shall be accompanied by TIC-1 copies for ten (10) percent of the executed TIC-1's that were effective during the reporting year. PR-1's shall confirm compliance as follows:

(a) If the Development is occupied at loan closing, the initial PR-1 and all subsequent PR-1 shall confirm compliance with the set-aside requirements and other development requirements, if any, as set forth in the LURA.

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

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

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

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

(9) For State Apartment Incentive Loan ("SAIL") Program developments, as defined in Rule Chapter 67-48, F.A.C. and Rental Recovery Loan Program ("RRLP") as established in Rules 67ER06-13 through 67ER06-24 and 67ER06-25 through 67ER06-41 the initial PR-1 shall be prepared as of the last day of the calendar month during which loan closing occurred, if the SAIL or RRLP development is occupied; or the rental of the initial unit occurred, whichever is later. Subsequent PR-1's shall be prepared as of the last day of each calendar month. PR-1's are due no later than the 15th of each month throughout the regulatory period. Annually, on dates assigned by the Corporation, the monitoring agent's copy of each PR-1 shall be accompanied by TIC-1 copies for ten (10) percent of the executed TIC-1's that were effective during the reporting year. PR-1's shall confirm compliance as follows:

(a) If the development is not occupied at loan closing, the initial PR-1 and all subsequent PR-1's shall confirm compliance with the set-aside requirements and other development requirements, if any, as set forth in the regulatory agreement.

(b) If the SAIL or RRLP development is occupied at the time of loan closing, compliance with the set-aside requirements and other SAIL or RRLP development requirements, if any, as set forth in the regulatory agreement, shall be confirmed by the first PR-1 submitted 12 months following the expiration of the last then-existing tenant lease, without regard to any extension of the term of any then-existing tenant leases. The calculation of the above 12-month period shall begin with the date of the loan closing.

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

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

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

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

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

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

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

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

(12) Compliance monitoring for each program will begin:

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

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

(c) For developments receiving an allocation of non-competitive HC without any Corporation-issued loans, following final housing credit allocation.

(d) For dDevelopments receiving competitive HC without any Corporation-issued loans, following execution of the Carryover

allocation agreement.

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

(13) Household Income Certification.

(a) SAIL, MMRB, RRLP and HC applicants shall initially certify that the household gross income, adjusted for family size, of each household occupying a unit set aside for Low-Income, Very Low-Income or Extremely Low-Income persons or households meets income requirements specified in Section 142(d)(3)(B) of the Internal Revenue Code, which is adopted and incorporated herein by reference. Copies may be obtained by contacting the Corporation's Compliance Monitoring Administrator. The determination of whether the income of a household occupying a unit in a development exceeds the applicable income limit shall be made at least annually on the basis of the current income of the household, except for any year if during such year no residential unit in the development is occupied by a new household whose income exceeds the applicable income limit. A development which certifies 100% of its units as low-income shall perform one annual income recertification effective upon the first anniversary of any household's move-in or initial certification. No additional income recertification shall be required by the Corporation. However, annual determination of student status shall be required for households comprised entirely of students. Should the annual income recertification of such households result in noncompliance with income occupancy requirements, the next available unit must be rented to a qualifying household in order to ensure continuing compliance of the development.

(b) HOME applicants shall initially certify that the household gross income, adjusted for family size, of each household occupying a unit set aside for Low-Income, Very Low-Income or Extremely Low-Income persons or households meets income requirements specified in the Code of Federal Regulations, Title 24, Section 92.203, which is adopted and incorporated herein by reference. Copies may be obtained by contacting the Corporation's Compliance Monitoring Administrator. The determination of whether the income of a household occupying a unit in a development exceeds the applicable income limit shall be made at least annually on the basis of the current income of the household, except for any year if during such year no residential unit in the development is occupied by a new household whose income exceeds the applicable income limit. A development which certifies 100% of its units as low-income shall perform one annual income recertification effective upon the first anniversary of any household's move-in or initial certification. Additional income recertification shall be performed as specified in the Code of Federal Regulations, Title 24, Section 92.252, which is adopted and incorporated herein by reference. Copies may be obtained by contacting the Corporation's Compliance Monitoring Administrator.

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

(15) Any Applicant obtaining funding from HOME, MMRB, HC or EHCL ("Group 2 Applicants") shall provide the Corporation with an audited financial statement and a fully completed and executed Form SR-1 annually by its submission deadline. The submission deadline for Group 2 Applicants is 120 days following their fiscal year end and shall be submitted to financial.reporting@floridahousing.org. A late fee of \$250 will be assessed by the Corporation to any Group 2 Applicant for failure to submit these documents by the submission deadline of each year. Group 2 Applicants shall complete only Parts 1, 2, and 5 of Form SR-1 prior to its submission.

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

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

(b) Notes.

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

Rulemaking Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History--New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.006, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, Formerly 67-48.00, Amended 1-17-05, 8-20-09.

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

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

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

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

Rulemaking Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History--New 9-5-02, Formerly 67-50.100, Amended 8-20-09.

67-53.010 Forms.

Rulemaking Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.509, 420.5099, 420.524, 420.9072 FS. History--New 1-17-05, Repealed 8-20-09.