

NOTICE OF PROPOSED RULEMAKING  
FLORIDA HOUSING FINANCE CORPORATION  
CHAPTER 67-57  
HOMEOWNERSHIP POOL PROGRAM

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**PURPOSE AND EFFECT:** The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall administer the application process, determine loan amounts, service loans and provide down payment assistance under the Homeownership Pool Program under the Homeownership Assistance Program (HAP) authorized by Section 420.5088, F.S., and the Home Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.

The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the State of Florida.

**SUMMARY:** The proposed amendments to the Rule and adopted reference material include changes that update the process by which these down payment assistance loans are made.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The rule is not likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. The rule is not likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. In addition, the rule is not likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 420.507, F.S.

**LAW IMPLEMENTED:** 420.507, 420.5088, 420.5089, F.S.

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

**DATE AND TIME:** April 17, 2019 at 3:00 P.M. Eastern Time

**PLACE:** Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301.

The hearing will also be accessible by telephone and the call-in information will be posted on the Corporation's website

<https://www.floridahousing.org/programs/homeowners/homeownership-development-programs/homeownership-programs>

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** David Westcott, Director of Homeownership Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850) 488-4197.

**THE FULL TEXT OF THE PROPOSED RULE IS:**

**67-57.001 Purpose and Intent.**

The purpose of this rule chapter is to establish the Homeownership Pool ("HOP") Program procedures by which the Corporation shall administer the Application process, determine loan amounts, service loans, and provide down payment assistance to Eligible Homebuyers for the purchase of Eligible Properties ~~new construction Units or substantially rehabilitated under the Homeownership Assistance Program (HAP)~~ as authorized by Section 420.5088, F.S., and the HOME Investment Partnerships Program (HOME) as

authorized by Section 420.5089, F.S., and HUD regulations, 24 CFR §92, which is adopted and incorporated into this rule chapter by reference and which is available on our Wwebsite at <https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-hop-program/related-references-and-links>  
<http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP>.  
Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New 6-26-06, Amended 10-14-07, \_\_\_\_\_.

#### **67-57.005 Definitions.**

(1) “Adjusted Income” means the gross income from wages or assets, cash or non-cash contributions, and any other resources and benefits determined to be income by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

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

(3) “Agency” means HUD’s Federal Housing Administration (FHA), the United States Department of Veterans Affairs (VA) or USDA/RD.

(4)(3) “AMI” or “Area Median Income” means the median income for an area, with adjustments made for household size, as determined by the U.S. Department of Housing and Urban Development (HUD).

(5)(4) “Applicant” means any person or legally formed entity that is seeking participation in one of the Corporation’s programs.

(6)(5) “Appraisal” means an appraisal of a residence prepared by a Qualified Appraiser.

(7)(6) “Area(s) of Critical State Concern” means the Florida Keys area of critical state concern.

(8)(7) “Board” means the Board of Directors of Florida Housing Finance Corporation.

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

(9) “CHDO” means a state certified Community Housing Development Organization as determined by the U.S. Department of Housing and Urban Development (HUD).

(10) “CLT” or “Community Land Trust” means a community housing development organization which acquires or develops parcels of land for the primary purpose of providing affordable housing in perpetuity through conveyance of the structural improvement subject to a long term ground lease which retains a preemptive option to purchase any such structural improvement at a price determined by a formula designed to ensure the improvement remains affordable in perpetuity.

(11) “Contact Person” means the person with whom the Corporation will correspond concerning the Application; this person cannot be a third party consultant.

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

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

(11)(14) “Disabling Condition” means a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions, and a determination that the condition is:

(a) Expected to be of long-continued and indefinite duration; and

(b) Not expected to impair the ability of the person with special needs to live independently with appropriate supports.

“Disability” means, pursuant to the Americans with Disabilities Act of 1990, Public Law 101-336, with respect to an individual:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(b) A record of such an impairment, or

(c) Being regarded as having such impairment.

(12) “Development Cost” means all costs incurred to construct the Unit, excluding the cost of the land.

(13)(15) “Eligible Homebuyer” means one or more natural persons or a household, irrespective of race, creed, religion, national origin, or sex, determined by the Corporation to be of very low or low to moderate income fully qualified and who will utilize the Unit as their primary residence.

(14)(16) “Eligible Properties” means newly constructed Units, or Units that have gone through Substantial Rehabilitation, that are single family detached houses, Manufactured Homes, homes with shared-wall construction, condominiums or co-ops.

(17) “Executive Director” means the Executive Director of the Florida Housing Finance Corporation.

(15)(18) “F.A.C.” means the Florida Administrative Code.

(16)(19) “F.A.R.” means the Florida Administrative Register.

(17)(20) “F.S.” means the Florida Statutes.

(18)(24) “Financial Beneficiary” means any Member and its Principals who receives or will receive a financial benefit of 3% or more of the total development cost of the Unit.

(22) “Financial Institution” means a state or federal association, bank, trust company, international bank agency, representative office or international administrative office, or credit union.

~~(19)~~(23) “First Mortgage” means the recorded mortgage which is superior to any other lien or encumbrance on the property.

~~(20)~~ “GSE” means the Government Sponsored Enterprises which includes Fannie Mae and Freddie Mac.

~~(21)~~(24) “HAP” means the Homeownership Assistance Program pursuant to Section 420.5088, F.S.

~~(22)~~(25) “HOME” means the HOME Investment Partnerships Program administered by the Corporation pursuant to HUD Regulation 24 CFR §92 and Section 420.5089, F.S.

~~(23)~~(26) “HOP” means the Homeownership Pool Program administered by the Corporation pursuant to HUD Regulation 24 CFR §92 and Sections 420.5088 and 420.5089, F.S.

~~(24)~~(27) “HOP Loan” means a zero percent (0%) interest rate, non-amortizing mortgage loan made to an Eligible Homebuyer, who has an Adjusted Income that does not exceed eighty percent (80%) AMI, for the purpose of down payment in the amount necessary to reduce the purchase price to an affordable amount and closing costs assistance.

~~(25)~~(28) “HOP Membership Application” means the forms and exhibits created by the Corporation for developers of affordable housing to apply for participation in the HOP program.

~~(26)~~(29) “HUD” means the U.S. Department of Housing and Urban Development.

~~(27)~~(30) “Living Space” means areas in a dwelling unit that are livable space. This does not include closets, crawl spaces, and other storage areas.

~~(28)~~ “Loan Servicer” means the Corporation or the Corporation’s designee that reviews homebuyers for eligibility.

~~(29)~~(31) “Loan Servicing” means the process by which the Corporation or Corporation’s designee reviews potential Eligible Homebuyers and services and monitors HOP Loans.

~~(32)~~ “Low Income” means the Adjusted Income for persons or households that does not exceed eighty percent (80%) AMI.

~~(30)~~(33) “Maximum Purchase Price” means the maximum purchase price of a Unit in an area as determined by HUD.

~~(31)~~(34) “Manufactured Home” means a single-family house constructed entirely in a controlled factory environment, built to the federal Manufactured Home Construction and Safety Standards administered by the U.S. Department of Housing and Urban Development (HUD). A manufactured house may be single- or multi-sectional and is transported to the site and installed on a permanent foundation.

~~(32)~~(35) “Member” means an business entity, including which includes non-profit and for-profit organizations who are developers of affordable housing, for-profit organizations acting solely as the developer/builder, Community Housing Development Organizations (CHDOs) approved by Florida Housing Finance Corporation, counties and eligible municipalities that are administrators of SHIP funding, and the United States Department of Agriculture—Rural Development (USDA-RD), which has been approved by the Corporation to participate in the HOP program.

~~(33)~~(36) “Member Fee” means the fee earned by the Member on the construction of the Unit.

~~(34)~~(37) “Mortgage” means Mortgage as defined in Section 420.503, F.S.

~~(38)~~ “Non Participating Jurisdiction” or “Non PJ” means a unit of general local government that has not been designated by HUD to receive annual HOME allocations.

~~(35)~~(39) “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 Mmortgage.

~~(36)~~(40) “Personal Assets” means cash held in savings accounts, checking accounts, safe deposit boxes; equity in rental property and other capital investments; cash value of stocks, bonds, Treasury bills, money market accounts; cash value of life insurance policies; personal property held as an investment; lump sum payments or one time receipts such as inheritance or insurance settlements; mortgages or deeds of trust held by homebuyer.

~~(41)~~ “PLP” or “Predevelopment Loan Program” means the Predevelopment Loan Program administered by the Corporation.

~~(42)~~ “Participating Jurisdiction” or “PJ” means a unit of general local government that is designated by HUD to receive annual HOME allocations.

~~(37)~~(43) “Principal” means any general partner of a Member, and any officer or director of any Member, or any officer or director of any general partner of a Member.

~~(38)~~(44) “Qualified Appraiser” means an individual or firm that is licensed in Florida and is qualified as an appraiser by the society of real estate appraisers or the American Institute of Real Estate Appraisers, and acceptable or approved by an Agency or GSE FHA, VA, FannieMae, Freddie Mae or any private mortgage insurance provider to provide appraisal reports.

~~(39)~~(45) “Retirement Assets” means individual retirement and Keogh accounts, retirement and pension funds.

~~(46)~~ “SHIP” means the State Housing Initiatives Partnership Program.

~~(40)~~(47) “Self Help” means a type of construction utilizing sweat equity operating under the guidelines of Habitat for Humanity International or USDA-RD.

~~(41)~~(48) “Site” means the parcel of property on which an individual housing Unit will be located.

~~(42)~~(49) “State” means the State of Florida.

~~(50)~~ “Subordinate Mortgage” means the recorded mortgage securing the HOP Loan which is subordinate to the First Mortgage.

~~(51)~~ “Substantial Rehabilitation” means the process by which eligible Members that are counties and eligible municipalities that

are recipients of SHIP funding, repair, improve, and bring an entire Unit up to current state or local code which is subsequently sold to an Eligible Homebuyer, as per their established policies and procedures submitted within their HOP Membership Application and approved by the corporation.

(43)(52) "Threshold" means the minimum criteria to be met for an Application to be considered complete, as required by this rule chapter and the HOP Membership Application Package.

(44)(53) "Unit" means a residential unit used as a single family residence and the land appurtenant that is taxed as real property under State laws.

(45)(54) "USDA-RD" means United States Department of Agriculture – Rural Development which includes Section 502 Direct Loans and Section 502 Self Help Loans.

(55) "Very Low Income" means the Adjusted Income of persons or households that does not exceed fifty percent (50%) AMI.

(46)(56) "Website" means the Florida Housing Finance Corporation website, the Universal Resource Locator (URL) of which is [www.floridahousing.org](http://www.floridahousing.org).

*Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History–New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.*

#### **67-57.010 Fees.**

(1) The Corporation shall collect a HOP Membership Application fee of \$500 from all entities when applying to become a Member of the pool for the HOP program. ~~Thereafter, Members must pay an annual renewal fee of \$50, due January 31st of each year.~~

(2) Member shall pay a non-refundable Loan Servicing fee upon submission of each loan package to the Loan Servicer. Member may be reimbursed for this fee out of closing.

(3) Any fees associated with inspections required under 24 CFR §92.251(a)(2) are the Member's responsibility.

(4) The Member Fee shall be limited to 16% of the ~~D~~development ~~C~~cost of the Unit

(5) Member shall be charged a failed inspection fee of \$500 for all homes inspected by ~~the Corporation FHFC~~ that have been determined to not have been built in compliance with HOP Property Standards per Rule 67-57.040, F.A.C. Non-compliant home(s) must be brought into compliance and the assessed fee must be paid before the HOP Loan will close. This fee cannot be passed on to the Eligible Homebuyer.

*Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History–New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.*

#### **67-57.020 Notice of Funding Availability (NOFA).**

(1) The Corporation shall post NOFAs, which advise of the availability and set-asides of HOP funding, on the Corporation's Website at [https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-\(hop\)-program/important-announcements](https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-(hop)-program/important-announcements) ~~http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP~~ and publish in the F.A.R. Florida Administrative Register (FAR).

(2) Funding will be made available in the form of reservations for Eligible Homebuyers on a first-come, first-served basis.  
*Rulemaking Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History–New 6-26-06, Repromulgated 10-14-07, \_\_\_\_\_.*

#### **67-57.030 Membership Application Procedures.**

(1) In order to participate in the HOP program, the Applicant must first apply to become a Member by meeting the requirements of the HOP Membership Application ("HOPMBR101 (4/1/19 5/1/08)"), which is adopted and incorporated herein by reference and is available on the Corporation's Website at [https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-\(hop\)-program/program-forms](https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-(hop)-program/program-forms) ~~http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP~~.

(2) Corporation Staff shall review the Applicant's qualifications and experience, and upon verification that the Threshold requirements have been met, Applicants shall be notified and provided a Member number.

(3) ~~If a Member submits a reservation for a Unit that was part of a development requesting HOME funds in a previous application to Florida Housing, pursuant to Rule Chapter 67-50, F.A.C., and the application for funding was withdrawn by the Member after June 26, 2006, and that Member or any Principal thereof had any ownership interest in that previous applicant entity, then it is deemed that the Member contemplated using HOME funds for the Unit prior to its construction and all applicable HOME provisions relating to Davis-Bacon, Affirmative Marketing, and environmental review will apply to that Unit, pursuant to 24 CFR §92.~~

(4) ~~If a Member has previously been awarded HOME funds for a development, then all of the Units committed to in conjunction with that award of funds, subject to the policy adopted by the Board on October 14, 2005, which is adopted and incorporated by reference, must be delivered before any other Units in the development are eligible for a reservation of funds under this chapter. This policy is available on the Corporation's website at~~  
~~<http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/Homeownership/default.htm>~~

(3) (5) ~~At each annual renewal, Members must notify the Corporation FHFC of any changes to the development team or~~

organization structure within 30 days of such change.

(4) (6) Failure to advise of any changes to the development team or organization structure or failure to pay the renewal fee will result in the inactivation of the membership of the Member.

*Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.*

**67-57.040 Property Standards.**

**(1) Construction Standards.** All Units must meet the more stringent of the State or local building code requirements as applicable. At a minimum, all construction shall fully comply with the Florida Building Code – Residential (currently adopted edition).

**(2) Required Basic Features.** All Units must contain at a minimum:

(a) Range and oven;

(b) Washer and dryer hookups;

(c) Telephone hook-ups, with electrical outlet located within 12" of each telephone jack (minimum of 2);

(d) Cable or satellite TV hookups (minimum of 2) located within 12" of an electrical outlet;

(e) All Living Space must be equipped with overhead lighting;

(f) Provide a home maintenance manual that includes information on basic home maintenance; manuals for all installed appliances, and information on how to use and maintain the green features of the home.

**(3) Accessibility and Visitability Features.** All Units must comply with the Florida Accessibility Code for Building Construction pursuant to s. 553.503, F.S., and contain at a minimum:

(a) At least one zero-step entrance approached by an accessible route on a firm surface no steeper than 1:12 proceeding from a driveway or public sidewalk;

(b) Lever-handled faucet with removable spout or lever-handled faucet with separate sprayer (spout or sprayer must have at least a 9-inch hose);

(c) Light switches should be no more than 48" above floor level;

(d) Midpoint on electrical outlets should be located no less than 18" above finished floor level;

(e) Reinforced walls for future installation of horizontal grab bars in toilet, bathtub, and shower walls;

(f) Lever-action handles on all doors and faucets in Units and public areas;

(g) Toggle-type or rocker style switches for lights and fans;

(h) All doors used for ingress/egress must be 34" (2' x 10") or larger. Any door other than a traditional hinged door such as: pocket doors, bi-fold doors, and double doors; must provide for at least a 32" minimum clear width entry;

(i) At least one accessible means of egress/ingress, including a primary entrance door which shall have a threshold with no more than a ½ inch rise, which may be waived for Manufactured Homes and Units built in Area(s) of Critical State Concern;

(j) For Units consisting of two or more levels, all space on the entry level of the Unit must meet the requirements of paragraphs (3)(a)-(i). On the second level at least one full bathroom and one bedroom must meet the requirements of paragraphs (3)(a)-(i), if there is not a full bathroom and a bedroom on the entry level; and

(k) Adjustable shelving in master bedroom closets (must be adjustable by resident).

**(4) Site Development.** All Site development shall include the following features and meet the following minimum requirements:

(a) Slope and terrain must be suitable for development. There shall be no problems with drainage, steep slopes or waterways on the Site;

(b) Access to Site must be compatible with existing traffic patterns and street capacity. Site access shall not enter or exit onto a major high-volume traffic artery;

(c) Site must be free from excessive traffic and noise, including that from cars, trains and airplanes. Members must submit a mitigation plan to the Corporation, detailing the proposed means and methods of risk reduction, if a Unit is (i) located within 3,000 feet of an active railroad line and/or subject to high railroad noise levels, (ii) located within 1,000 feet of a major high-volume traffic artery, freeway, or other highway would carry a daily volume of 25,000 motor vehicles or more, or (iii) within 500 feet if the highway that would carry more than 10,000 vehicles but fewer than 25,000. The Site must not be located in an airport clear zone;

(d) The Site must be free from significant industrial or agricultural hazards, including hazardous substances; toxic chemicals; gas, oil and chemical storage tanks and facilities; runoff; spills; odors; noise; and airborne particulates;

(e) The neighborhood shall be primarily residential and adjacent areas should be compatible with residential development;

(f) Provide off-street parking that is consistent with local code, rule or ordinance;

(g) Provide a paved/surfaced driveway and walkway to one entry door; and

(h) Provide landscaping that meets all local requirements and is appropriate for the terrain and neighborhood;

**(5) Appliances.** Provide Energy Star certified appliances as applicable, including:

(a) Refrigerator;

(b) Dishwasher (where provided);

- (c) Clothes washer (where provided);
- (d) Clothes dryer (where provided);
- (e) Water heaters, including electrically powered storage, gas fired storage and gas fired instantaneous (tankless)

**(6) Green Building Certification.** All Units, excluding Self Help Units, must be certified to one of the following green building practices: EnergyStar certification, Florida Green Building Coalition (FGBC), ICC 700 National Green Building Standard (NGBS) or Leadership in Energy and Environmental Design (LEED).

**(7) Manufactured Housing.** Manufactured Homes must meet or exceed the following standards, which are adopted and incorporated herein by reference and are available at: [https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-\(hop\)-program/related-references-and-links](https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-(hop)-program/related-references-and-links), unless superseded by State or local building codes:

- (a) Meet the Manufactured Home Construction and Safety Standards (MHCSS) pursuant to 24 CFR Part 3280;
- (b) Be sited on a permanent foundation in accordance with the Permanent Foundation Guide for Manufactured Housing (HUD-007487);
- (c) Be considered real property by the local property appraiser and the land and home must be taxed together;
- (d) Be connected to permanent utility hook-ups; and,
- (e) All purchase contracts must be turn-key.

(1) All new construction Units must meet the more stringent of the State or local building code requirements as applicable. All Units must contain at a minimum:

- (a) Range and oven;
- (b) Energy Star rated refrigerator;
- (c) Energy Star rated dishwasher (which may be waived for self help units);
- (d) Lever handled faucet with removable spout or lever handled faucet with separate sprayer (spout or sprayer must have at least a 9 inch hose);
- (e) No exposed urea formaldehyde particle board;
- (f) Washer and dryer hookups;
- (g) Telephone hook ups, with electrical outlet located within 12" of each telephone jack (minimum of 2);
- (h) Cable or satellite TV hookups (minimum of 2) located within 12" of an electrical outlet;
- (i) Light switches should be no more than 48" above floor level;
- (j) Midpoint on electrical outlets should be located no less than 18" above finished floor level;
- (k) Reinforced walls for future installation of horizontal grab bars in toilet, bathtub, and shower walls;
- (l) Lever handled faucets with anti scald in each tub/shower fixture;
- (m) Lever action handles on all doors and faucets in Units and public areas;
- (n) Toggle type or rocker style switches for lights and fans;
- (o) All living spaces must be equipped with overhead lighting;
- (p) All doors used for ingress/egress must be 34" (2' x 10") or larger. Any door other than a traditional hinged door such as: pocket doors, bi-fold doors, and double doors; must provide for at least a 32" minimum clear width entry;
- (q) At least one accessible means of egress/ingress, which may be waived for manufactured housing Units and Units built in Area(s) of Critical State Concern;
- (r) For Units consisting of two or more levels, all space on the entry level of the Unit must meet the requirements of paragraphs (1)(a) (q). On the second level at least one full bathroom and one bedroom must meet the requirements of paragraphs (1)(a) (q), if there is not a full bathroom and a bedroom on the entry level; and,
- (s) Provide a home maintenance manual that includes information on basic home maintenance; manuals for all installed appliances, and information on how to use and maintain the green features of the home.

(2) Effective January 1, 2009 all new construction Units, excluding Self Help Units, must be certified to one of the following green building practices: EnergyStar, Florida Green Building Coalition, or Leadership in Energy and Environmental Design (LEED). Also effective January 1, 2009, excluding Self Help Units, paragraph (c), listed in subsection (1), of the Property Standard will no longer be applicable.

- (3) All Units must include at a minimum the following exterior features:
  - (a) Minimal landscaping;
  - (b) Paved/surfaced driveway and walkway to one entry door; and,
  - (c) Off street parking.
- (4) Site standards must include:
  - (a) Slope and terrain must be suitable for development. There shall be no problems with drainage, steep slopes or waterways on the site;
  - (b) Access to site must be compatible with existing traffic patterns and street capacity. Site shall not enter or exit onto a major high volume traffic artery that would create problems for resident access or hazards to children;
  - (c) Site must be free from excessive traffic and noise, including that from cars, trains and airplanes. Members must submit a

mitigation plan to the Corporation, detailing the proposed means and methods of risk reduction, if a Unit is (i) located within 3,000 feet of an active railroad line and/or subject to high railroad noise levels, (ii) located within 1,000 feet of a major high volume traffic artery, freeway, or other highway would carry a daily volume of 25,000 motor vehicles or more, or (iii) within 500 feet of the highway that would carry more than 10,000 vehicles but fewer than 25,000. The site must not be located in an airport clear zone;

(d) The site must be free from significant industrial or agricultural hazards, including hazardous substances; toxic chemicals; gas, oil and chemical storage tanks and facilities; runoff; spills; odors; noise; and airborne particulates; and,

(e) The neighborhood shall be primarily residential and adjacent areas should be compatible with residential development.

(5) Manufactured homes must meet or exceed the following standards, which are adopted and incorporated herein by reference and are available at <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP>, unless superseded by state or local building codes:

(a) Meet the Manufactured Home Construction and Safety Standards (MHCSS) pursuant to 24 CFR Part 3280;

(b) Be sited on a permanent foundation in accordance with the Permanent Foundation Guide for Manufactured Housing (HUD-007487);

(c) Be built to the increased standards in the HOP Manufactured Housing Standards;

(d) Be considered real property by the local property appraiser and the land and home must be taxed together;

(e) Be connected to permanent utility hook ups; and,

(f) All purchase contracts must be turn key.

Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.

#### **67-57.050 HOP Program Restrictions.**

(1) All Units must be new construction which have not been previously occupied ~~except that Members that are counties and eligible municipalities that are administrators of SHIP funding may make reservations for Eligible Homebuyers for HOP funds on Units that are currently in the process of Substantial Rehabilitation.~~

(2) At no time shall the HOP Loan HOME financing exceed the Maximum Per Unit Subsidy Limits pursuant to 24 CFR §92.250.

(3) The maximum per-unit subsidy of HOP funding is limited to \$25,000 the lesser of twenty five percent (25%) of the purchase price of the Unit, \$70,000, or the amount necessary to meet the borrower analysis criteria, with the exception of Eligible Homebuyers with a Disabling Condition disabilities and those at fifty percent (50%) AMI or below, which shall not exceed \$35,000 the lesser of thirty five percent (35%) of the purchase price, \$80,000, or the amount necessary to meet the borrower analysis criteria.

(4) Eligible participants include non profit organizations, as defined in Internal Revenue Code of 1986 (26 USC 42, subsection 501(c)(3) or 501(c)(4)) and organized under Chapter 617, F.S., if a Florida Corporation, or under similar state law if organized in a jurisdiction other than Florida, for profit organizations acting solely as the developer/builder, Community Housing Development Organizations (CHDOs) approved by Florida Housing Finance Corporation, counties and eligible municipalities that are administrators of SHIP funding, and the United States Department of Agriculture—Rural Development (USDA RD), which has been approved by the Corporation to participate in the HOP program.

~~(4)(5)~~ A Member may not be a Financial Beneficiary of another Member.

~~(5)(6)~~ Members shall be limited to a maximum of 60 Units per calendar year and no more than 10 Units in the reservation system at a time.

~~(6)(7)~~ The HOP Loan shall be evidenced by a properly executed ~~and recorded~~ nNote and secured by a properly executed and recorded Mmortgage provided by the Corporation.

~~(7)(8)~~ The HOP Loan should not be in lower than a second lien position; however, it may occupy a lien position lower than second if another source of down payment assistance from a local government is provided to the Eligible Homebuyer in an amount that exceeds the HOP Loan. ~~The HOP Loan shall not share priority with any other liens unless approved by the Board.~~

~~(8)(9)~~ The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the after construction or appraised value of the Unit with the exception of Eligible Homebuyers with a Disabling Condition disabilities for which the ratio cannot exceed one hundred twenty percent (~~110~~ 120%). In the loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a five (5) year period or any portion of a subsidy that is forgivable within a five (5) year period.

~~(10)~~ ~~In the case of Community Land Trusts, Eligible Homebuyers may assume HOP Loans, subject to further approval by Corporation staff.~~

~~(9)(11)~~ When HOP funds are used with other Corporation programs, the more stringent borrower analysis criteria will apply as it relates to eligibility requirements; however, in no instance can the HOP Loan be combined with any other Corporation down payment assistance funds.

~~(10)(12)~~ All Units must undergo any inspections required under 24 C.F.R. §92.251(a)(2)24.

~~(11)(13)~~ A Unit shall qualify as affordable housing if:

(a) The value or initial purchase price of the property after construction does not exceed the Maximum Purchase Price ninety five percent (95%) of the median purchase price for the area; and

(b) The purchase price of the property after construction must not exceed the appraised value of the property; ~~and,~~  
(c) ~~The Model Energy Code requirements are met or exceeded as enumerated in 2007 Florida State Energy Code (which exceeds 2006 International Energy Conservation Code).~~

~~(12)~~(14) Members are responsible for providing the Loan Servicer assigned servicing entity with completed documentation of the homebuyer.

~~(13)~~(15) Homebuyer reservations will be denied or cancelled if a Member or any Principal, or Affiliate of a Member has any existing developments participating in any Corporation programs that remain in non-compliance with the Code, the applicable Florida Statutes and rule chapters, loan documents, or any loan commitment after any applicable cure period granted for correcting such non-compliance has ended.

~~(14)~~(16) An Applicant/Member shall be ineligible for funding or allocation in any program administered by the Corporation for a period of time as determined in paragraph (c), below, if:

(a) The Board determines that the Applicant/Member or any Principal, Financial Beneficiary, or Affiliate of the Applicant/Member has made a material misrepresentation or engaged in fraudulent actions in connection with any Application for a Corporation program. For purposes of this subsection, there is a rebuttable presumption that an Applicant/Member has engaged in fraudulent actions if the Applicant/Member or any Principal, Financial Beneficiary or Affiliate of the Applicant/Member:

1. Has been convicted of fraud, theft or misappropriation of funds,
2. Has been excluded from federal or Florida procurement programs for any reason,
3. Has been convicted of a felony in connection with any Corporation program, or
4. Has offered or given consideration with respect to a local contribution as set forth in subsection (7), below.

(b) Before any such determination can be final or effective, the Corporation must serve an administrative complaint that affords reasonable notice to the Applicant/Member of the facts or conduct that warrant the intended action, specifies a proposed duration of ineligibility, and advises the Applicant/Member of the opportunity to request a proceeding pursuant to sections 120.569 and 120.57, F.S. Upon service of such complaint, all pending transactions under any program administered by the Corporation involving the Applicant/Member, or any Principal, Financial Beneficiary or Affiliate of the Applicant/Member shall be suspended until a final order is issued or the administrative complaint is dismissed.

(c) The administrative complaint will include a proposed duration of ineligibility, which may be either a specific period of time or permanent in nature. With regard to establishing the duration, the Board shall consider the facts and circumstances, inclusive of each Applicant/Member's compliance history, the type of misrepresentation or fraud committed, and the degree of harm to the Corporation's programs that has been or may be done. If the Board determines that any Member or any Affiliate of a Member has:

- (a) Engaged in fraudulent actions;
- (b) Materially misrepresented information to the Corporation regarding any of its developments within the current Application or in any previous applications for financing or an allocation of Housing Credits administered by the Corporation;
- (c) Been convicted of fraud, theft or misappropriation of funds;
- (d) Been excluded from federal or Florida procurement programs, or
- (e) Been convicted of a felony, and upon determination by the Board that such action substantially increases the likelihood that the Member will not be able to produce quality affordable housing, the Member or any Principal, or Affiliate of a Member or developer will be ineligible for funding or allocation in any program administered by the Corporation for a period of two (2) years, which will begin from the date the Board makes such determination, pursuant to Sections 420.507(14) and (34), F.S. Such determination shall be made 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.

*Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.*

#### **67-57.060 Eligible Homebuyer Requirements.**

- (1) In order to receive a HOP Loan under the HOP program, the Eligible Homebuyer must:
  - (a) Have an Adjusted Income that does not exceed eighty percent (80%) AMI;
  - (b) Qualify as an Eligible Homebuyer at the time of the execution of the purchase contract;
  - (c) Occupy the Unit as their principal residence;
  - (d) Provide a minimum down payment of \$500, except when participating in a Self-Help program;
  - (e) Not have Personal Assets in excess of \$30,000 and Retirement Assets in excess of \$100,000, excluding equity contributions toward the Unit;
  - (f) Completed a pre-purchase homebuyer education course, which includes face-to-face homebuyer education if provided by a HUD-approved counseling agency, a unit of local government that provides pre-purchase homebuyer education in Florida, or a counseling agency designated by a unit of local government to provide homebuyer education on their behalf. Online courses are permitted if provided by a HUD-approved agency, a unit of local government that provides pre-purchase homebuyer education in Florida, a mortgage insurance provider, or an Agency or GSE sponsored course. Certificates of Completion are acceptable for 2 years from the date of completion. HUD approved or SHIP approved face to face homebuyer education course; and,



(g) Comply with the HOP Homebuyer Underwriting Guidelines (4/1/19 5/1/08), which are adopted and incorporated herein by reference and available at [https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-\(hop\)-program/related-references-and-links](https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-(hop)-program/related-references-and-links) <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP>.

(2) The Eligible Homebuyer must maintain the following types of insurance, naming the Corporation as an additional insured:

- (a) Replacement cost hazard insurance;
- (b) Title insurance in the amount of the HOP Loan; and,
- (c) Flood insurance if the Unit is located within the 100-Year Floodplain.

(3) Repayment of principal on the HOP Loan shall be deferred until maturity or if the homebuyer sells, transfers or disposes of the Unit either voluntarily or involuntarily, or ceases to occupy the Unit as a principal residence pursuant to 24 CFR §92.254(4) or Section 420.5088, F.S.

(4) The Corporation will consider resubordinating its HOP Loan to a First Mortgage loan when a refinancing occurs. In making a determination, the Corporation will review the following terms of the new transaction: loan type, term of the loan, fixed interest rate percentage, principal balance of the loan, reason for the request and whether or not the terms of the new loan are beneficial to the homebuyer.

(a) The homebuyer is subject to the following:

- 1. The homebuyer must have resided in the property for at least one year,
- 2. No additional debt can be refinanced into the new First Mortgage, with the exception of Unit repairs or improvements which require that these funds be escrowed, and
- 3. The homebuyer cannot receive any cash out as a result of the refinancing; and,
- 4. The homebuyer is limited to a single approved resubordination prior to repayment of the mortgage.

(b) The homebuyer is subject to a processing fee not to exceed \$50. In the event it is determined that the homebuyer is not eligible, fifty percent (50%) of the processing fee will be returned.

*Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.*

#### **67-57.070 Homebuyer Loan Process.**

(1) Once construction on the Unit has begun, Members shall reserve HOP funds homebuyer financing, on a loan-by-loan basis, by providing the required date of foundation inspection on the HOP Homebuyer Reservation (“HOPRES201 (\_\_\_\_ 5/1/08)”), which is adopted and incorporated into this rule chapter by reference and which is available on our Website at <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP>.

(2) Within fourteen (14) Calendar Days of making the reservation, unless a Member is subject to subsection (8) or (9), below, Members must submit to the Corporation a copy of the building permit and the Corporation must approve the completed Environmental Checklist (“HOPENV301 (4/1/19 5/1/08)”), which is adopted and incorporated into this rule chapter by reference and which is available on our website at [https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-\(hop\)-program/program-forms](https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-(hop)-program/program-forms)

<http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP> or the reservation will be cancelled.

(3) Funds shall be reserved for a maximum of one hundred eighty (180) Calendar Days. If the funds for the Eligible Homebuyer are not drawn within that period, the reservation of funds shall be cancelled and the Member must submit a new reservation.

(4) Existing reservations in counties affected by a newly designated Presidentially declared or State declared Disaster Area shall be granted an automatic ninety (90) Calendar Day extension of the reservation. If additional time is needed, Members must submit a request for an extension which requires Board approval. Reservations without Board approved extensions will be cancelled.

(5) At least four (4) weeks prior to the HOP Loan closing, the Member shall submit to the Loan Servicer ~~Service~~ a borrower analysis package, which shall include:

- (a) Borrower analysis worksheet with all required documentation;
- (b) Certification or evidence of pre-purchase homebuyer education ~~provided by an approved HUD or SHIP counselor~~;
- (c) Copy of First Mortgage lender’s approval letter;
- (d) Third party documentation of household income and Personal Assets;
- (e) Copy of as-built property Appraisal;
- (f) Copy of purchase contract and any addendums; and,
- (g) Copy of approval page generated from the HUD Income Calculator, which can be found at HUD’s website at

(6) The Loan Servicer ~~Service~~ shall underwrite the HOP Loan and review the terms and conditions of the First Mortgage loan.

(7) A minimum of five (5) Calendar Days prior to closing, the Member shall provide the loan closing package, which shall include:

- (a) Requisition of Funds/Loan Detail Report and all required documents;
- (b) Proof of property insurance;

- (c) Proof of title insurance;
- (d) Amenities certification; and,
- (e) Green building certification as required in 67-57.040, F.A.C. Certification from EnergyStar, Florida GreenBuilding Coalition or LEED (effective January 1, 2009).

(8) Members using Self Help under USDA-RD Section 502 financing can make reservations four (4) weeks prior to the homebuyer closing. After making the reservation, the borrower analysis package, must be sent to the Loan Servicer Servicing for review and approval. In addition, the HOP Self-Help/CHDO Checklist (“HOPSelfHelpCHDO302 (4/1/19 5/1/08)”), which is adopted and incorporated into this rule chapter by reference and which is available on our Website at [https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-\(hop\)-program/program-forms](https://www.floridahousing.org/programs/homebuyer-loan-program-wizards/homeownership-pool-(hop)-program/program-forms) <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP>, or other acceptable documentation must be sent to the Corporation within fourteen (14) days of the reservation date. Upon approval, the closing can occur and funds will be held in escrow by the Corporation.

~~(9) Members that have been certified as a CHDO are able to make reservations in the name of the homebuyer prior to starting construction on a new home. After making the reservation, the HOP Self Help/CHDO Checklist (“HOPSelfHelpCHDO302 (5/1/08)”), which is adopted and incorporated into this rule chapter by reference and which is available on our website at <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP> must be sent to the Corporation within fourteen (14) days of the reservation date accompanied by a copy of the construction contract which covers the building of the Unit. If the construction contract provided is for 12 or more Units, the CHDO must provide evidence from a third party that the construction of these Units is in compliance with Labor Standards as enumerated in 24 CFR §92.354 and 40 U.S.C. 3142-3144, 3146 & 3147 (Davis Bacon) and all other applicable labor regulations and laws. All costs and fees associated with compliance monitoring for the Davis Bacon Act and other labor regulations and laws are the responsibility of the CHDO Member.~~  
*Rulemaking Authority 420.507(12), (14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History–New 6-26-06, Amended 10-14-07, 6-17-08, \_\_\_\_\_.*

#### **67-57.080 HOME Regulations.**

All Members, homebuyers, and Units must conform to the following federal requirements, as applicable, which are adopted and incorporated herein by reference, available at <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP>:

- (1) Annual Adjusted Income as enumerated in 24 CFR §5.609;
- (2) Affirmative Marketing as enumerated in 24 CFR §92.351;
- (3) Affordability Requirements, pursuant to 24 CFR §92.254(4);
- (4) Community Housing Development Organization (CHDO) as enumerated in Section 420.503(7), F.S., and organized pursuant to 24 CFR §92 and the CHDO Checklist (11/02);
- (4)(5) Conflict of Interest as enumerated in 2 CFR §200.317, 2 CFR§200.318 and 24 CFR §92.356, 24 CFR §85.36 and 24 CFR §84.42;
- (5)(6) Debarment and Suspension as enumerated in 24 CFR §24;
- (6)(7) Displacement, Relocation, and Acquisition as enumerated in 24 CFR §92.353, 42 U.S.C. 4201-4655, 49 CFR §24, 24 CFR §42 (Subpart C) (Chapter 104(d) “Barney Frank Amendments”);
- (7)(8) Economic Opportunity as enumerated in 24 CFR §135;
- (8)(9) Environmental Review as enumerated in 24 CFR §58.35(a) and (b), 24 CFR §92.352, and National Environmental Policy Act of 1969;
- (9)(10) Equal Opportunity and Fair Housing as enumerated in 24 CFR §92.202 and 92.251, Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Fair Housing Act (42 U.S.C. §§3601-3619), Age Discrimination Act of 1975, as amended (42 U.S.C. §6101), Executive Order 11063 (amended by Executive Order 12259), and 24 CFR §5.105(a) 24 CFR §92.202 and 92.250, 42 U.S.C. 2000d et seq., 42 U.S.C. 3601-3620, 42 U.S.C. 6101, and 24 CFR §5.105(a);
- (10)(11) Equal Opportunity Employment as enumerated in 41 CFR §60;
- (11)(12) Flood Insurance as enumerated in Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106);
- (12)(13) Handicapped Accessibility as enumerated in Section 504 of the Rehabilitation Act of 1973 (implemented in 24 CFR Part 8) and 24 CFR §100.205 24 CFR §8;
- (13)(14) Labor Standards as enumerated in 24 CFR §92.354 and 40 U.S.C. 3142-3144, 3146 & 3147 (Davis-Bacon Act), and 24 CFR §70 (volunteers);
- (14)(15) Maximum Per Unit Subsidy Limits as enumerated in 24 CFR §92.250;
- (15)(16) Minority/Women Employment as enumerated in 2 CFR §200.321 and Executive Orders 11625, 12432, and 12138 24 CFR §85.36(e);
- (16)(17) Property Standards as enumerated in 24 CFR §92.251;
- (17)(18) Recapture provisions as enumerated in 24 CFR §92.254(5)(ii)(1); and,
- (18)(19) Record keeping requirements as enumerated in 24 CFR §92.508; and 24 CFR §92.254.
- (19) Site and Neighborhood Standards as enumerated in 24 CFR §92.202.

*Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(23), 420.5089 FS. History—New 6-26-06, Amended 10-14-07,*

NAME OF PERSON ORIGINATING PROPOSED RULE: David Westcott, Director of Homeownership Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850) 488-4197.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ray Dubuque, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850) 488-4197.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 19. Issued January 29, 2019.