

# Proposed Rule Changes to Florida's Affordable Housing Allocation and Funding Process

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The Florida Housing Finance Corporation ("Florida Housing") has proposed changes to its rules governing the affordable housing allocation and funding process. The changes are to Rule Chapters 67-21, 67-48, and 67-60, F.A.C.

One significant change includes amendments to the definitions of "Applicant" and "Principal." The changes will require applicants that are not developers to consist entirely of natural persons at the third principal disclosure level. These changes are intended to increase transparency by plainly stating the identities of the individuals behind a particular application. Another significant change will allow Florida Housing to make applicants permanently ineligible if the applicant or any principal, financial beneficiary or affiliate has committed fraud or made material misrepresentations regarding an application for funding. The change includes a rebuttable presumption that an applicant has engaged in fraud or made material misrepresentations if certain conditions are met.

Other proposed changes include:

- Reducing the initial period within which a loan must be secured from 12 months to 9 months; and reducing the length of the extension available to an applicant to obtain a firm loan commitment from 12 months to 6 months.
- For the SAIL and HOME programs, requiring the general partners or managing members of the applicant to provide a guarantee for completion of construction. In addition, one or more other entities with an ownership interest in the applicant may be required to provide a guarantee for completion of construction.
- Amendment to the limits of allowable developer fee and general contractor fee by excluding land and operating deficit reserves from the calculation of the development cost.
- Limiting the total development cost by providing that the total cost of acquiring real property and other associated options may not exceed the appraised value of the real property as determined in the credit underwriting process.
- Requiring the good faith deposit associated with MMRB fees to be paid in one payment, rather than in two equal installments.
- Providing conditions under which a selected applicant can enter credit underwriting even though there are unresolved challenges to the selection of other applicants.
- Changing the definition of "SAIL Development" by deleting the requirement that residential buildings each contain five or more dwelling units and functionally related facilities and removing the modifier "substantially" with reference to rehabilitation.
- Altering the start date by which set-aside requirements begin to apply. Provides that failure to meet the set-aside requirements during the "transition period" (first 12 months after the SAIL loan closing date) may not cause noncompliance.
- Creating the term "SAIL Rent-Restricted Unit," defined as a unit for which the gross monthly rent may not exceed 30 percent of the income limitation committed to in the application.
- Removing the requirement that the CDHO have at least a 51 percent ownership interest in the development held by the general partner entity.
- Providing that the set-aside requirements apply beginning on the later of the first day on which any residential unit is occupied or the HOME loan closing date.
- Providing that HOME-assisted new development projects must meet all state or local residential and building codes. The

costs necessary to meet such codes are eligible for HOME funding.

- Providing procedures for determining the fair market value of the underlying land of a development, for purposes of a qualified contract request.
- Removing the provision permitting the credit underwriter to determine that a development is eligible for 30 basis points over the housing credit percentage. Requires 15 basis points instead, unless the applicant has previously locked in the percentage at a different rate.
- Providing additional criteria for developments to qualify for tax-exempt bond financing.

A hearing will be held July 20 at 9:30 a.m. at the Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee. Interested parties may attend the hearing in person or by phone at 1-888-339-2688, passcode 728-006-86.

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