

CHAPTER 67-37 STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM

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67-37.002 Definitions.

As used in this rule chapter, the following definitions shall apply:

- (1) “Administrative Expenditures” means those expenditures directly related to implementation of the Local Housing Assistance Plans.
- (2) “Annual Report” or “Form SHIP-AR/02-1” means a report required to be completed and submitted to the Corporation by September 15 of each year pursuant to Section 420.9075(9), F.S., and is adopted and incorporated herein by reference with an effective date of 9-22-03. A complete copy of Form SHIP-AR/02-1 may be obtained at www.floridahousing.org, or by contacting Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.
- (3) “Debt Service” means the amount required in any fiscal year to pay the principal of, redemption premium, if any, and interest on bonds and any amounts required by the terms of the documents authorizing, securing, or providing liquidity for bonds necessary to maintain in effect any such liquidity or security arrangements.
- (4) “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.
- (5) “Encumbered” means that deposits made to the local affordable housing trust fund have been committed by contract, or purchase order, letter of commitment or award in a manner that obligates the county, eligible

municipality, or interlocal entity to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property by a vendor, supplier, contractor, or owner.

(6) “Expended” or “Spent” means the affordable housing activity is complete and funds deposited to the local affordable housing trust fund have been transferred from the local housing assistance trust fund account to pay for the cost of the activity.

(7) “Home Ownership Activities” means the use of the local affordable housing trust fund moneys for the purpose of providing owner-occupied housing. Such uses include construction, rehabilitation, purchase, and lease-purchase financing where the primary purpose is the eventual purchase of the housing by the occupant within twenty-four months from initial execution of a lease agreement or within 24 months of the applicable fiscal year, whichever occurs first, to meet the requirement of subsection (8).

(8) “Institutional First Mortgage Lender” means any financial institution or governmental agency authorized to conduct business in this state and which customarily provides service or otherwise aids in the financing of mortgages on real property located in this state.

(9) “Interlocal Entity” means an entity created pursuant to the provisions of Chapter 163, Part I, F.S., for the purpose of establishing a joint local housing assistance plan pursuant to the provisions of Section 420.9072(5), F.S.

(10) “Loan” means an award from the local housing assistance trust fund to an eligible sponsor or eligible person to partially or fully finance the acquisition, construction, or rehabilitation of eligible housing with requirement for repayment or provision for forgiveness of repayment if the condition of the award is maintained.

(11) “Persons Who Have Special Housing Needs” means individuals who have incomes not exceeding moderate-income and, because of particular social, economic, or health-related circumstances, may have greater difficulty acquiring or maintaining affordable housing. Such persons may have, for example, encountered resistance to their residing in particular communities, and may have suffered increased housing costs resulting from their unique needs and high risk of institutionalization. Such persons include: persons with developmental disabilities; persons with mental illnesses or chemical dependency; persons with Acquired Immune Deficiency Syndrome (“AIDS”) and Human Immunodeficiency Virus (“HIV”) disease; runaway and abandoned youth; public assistance recipients; migrant and seasonal farm workers; refugees and entrants; the elderly; and disabled adults.

(12) “Rehabilitation” means repairs or improvements which are needed for safe or sanitary habitation, correction of substantial code violations, or the creation of additional living space. Local plans may more specifically define local rehabilitation standards.

(13) “Review Committee” means the committee established pursuant to Section 420.9072(3)(a), F.S.

(14) “SHIP” or “SHIP Program” means the State Housing Initiatives Partnership Program created pursuant to the State Housing Initiative Partnership Act, Sections 420.907-.9079, F.S.

(15) “State” means the State of Florida.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.002, Amended 12-26-99, 9-22-03, 1-30-05.

67-37.005 Local Housing Assistance Plans.

- (1) To be eligible for SHIP funding for a state fiscal year, a county or eligible municipality must submit and receive approval of its local housing assistance plan and amendments thereto as provided in Rule 67-37.006, F.A.C. Plans must be submitted to the Corporation by May 2 preceding the end of the fiscal year in which the current plan expires. In the case of new eligible municipalities, plans must be submitted to the Corporation by May 2 of the state fiscal year prior to the state fiscal year they are eligible for funding. No SHIP local housing distribution funds shall be distributed in any fiscal year to any county or eligible municipality unless and until an approved plan is in place with respect to such fiscal year.
- (2) The effective period of a local housing assistance plan may be up to three years. Counties or eligible municipalities which receive plan approval for more than one fiscal year shall not be required to resubmit a new plan until May 2 of the year in which the approved plan expires.
- (3) Each local housing assistance plan shall include a description of the local housing assistance plan and incentive strategies, shall reference the requirements of Section 420.907-.9079, F.S., et seq., and how each of those requirements shall be met, and shall describe the process which the local government has followed to develop the Plan. A county or eligible municipality may choose to use SHIP local housing distribution funds for one or more of the activities described in Rule 67-37.007, F.A.C.
- (4) The county or eligible municipality shall provide in its local housing assistance plan a complete description of all activities to be undertaken in its local housing assistance plan as described in Rule 67-37.005, F.A.C.
- (5) For each strategy or use of local housing distribution funds, the county or eligible municipality shall provide, in its local housing assistance plan, the following information:
 - (a) The proposed dollar amount of the local housing distribution to be used for each strategy, stated for each State fiscal year in a multi-year plan;
 - (b) The estimated number of households proposed to be served by income;
 - (c) The maximum amount of funding per unit, and the estimated amount of funding for new construction, rehabilitation or non-construction activities. On a multi-year plan, this information must be presented separately for each State fiscal year;
 - (d) The proposed sales price of new and existing units, which can be lower but may not exceed 90 percent of median area purchase price established by the U.S. Treasury Department, or as required by Section 420.9075(4)(c), F.S.;
 - (e) The statement that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of an amount representing the percentage of the area's median annual gross income for the household as indicated in Section 420.9071(19), (20) or (28), F.S. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing. Housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size established by the Corporation;
 - (f) A description of the extent to which a strategy is implemented by combining resources through a partnership in order to reduce the cost of housing;

(g) A description of the support services provided by local plans that will be made available to the residents of the housing; and

(h) A description of the initiatives which will be used to conduct outreach and to attract applicants for assistance. The information required for paragraphs (a) through (d) will be included on the “Housing Delivery Goals Chart #2002,” and is adopted and incorporated herein by reference with an effective date of 9-22-03, which is required to be completed for each fiscal year. A copy of the “Housing Delivery Goals Chart #2002” may be obtained at www.floridahousing.org or by contacting Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.

(i) A description of how the strategies further the housing element, goals, policies, and objectives of the local government’s comprehensive plan.

(6) Each local housing assistance plan shall also include a statement, and evidence thereof, that the county or eligible municipality:

(a) Has a plan to advertise a notice of funding availability of the housing assistance plan at least 30 days before the beginning of the application period in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, the advertisement must include the following:

1. Identify the amount of the distribution projected to be received from the state for the fiscal year;
2. List the beginning and end date, if applicable, of the application period;
3. Provide the name of the local plan contact person and other pertinent information including where applicants may apply for assistance.

(b) The advertisement may include other such information that the local governments deem necessary such as:

1. An estimated amount of SHIP local housing distribution per strategy;
2. Income set asides for each strategy along with applicable income limits;
3. A description of the selection criteria for each strategy;
4. The maximum housing value limitation for each strategy; or
5. A statement that SHIP local housing distribution may not be used to purchase, rehabilitate, or repair mobile homes.
6. Once a waiting list has been exhausted and funds remain unencumbered, advertise as instructed in Section 420.9075(3)(b), F.S.
7. Has developed a qualification system and selection criteria for applications for Awards to eligible sponsors, which includes a description that demonstrates how eligible sponsors that employed personnel from the WAGES and Workforce Development Initiatives programs will be given preference in the selection process, adopted criteria for selection of eligible persons, and adopt a maximum Award schedule or system of amounts consistent with the intent and budget of its local housing assistance plan, with Sections 420.907-.9079, F.S.;

(c) Certifies that the staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility throughout the 15 year compliance period as described at subsection 67-37.007(10), F.A.C.

(d) A time line for the expenditure of SHIP local housing distribution funds in sufficient detail to allow for a comparison of such plan with actual expenditures. The time line must also provide, in sufficient detail, an alternate course of action should the local government determine it will not meet program encumbrance and/or expenditure requirements. The time line should include specific dates the local staff plan to review to determine plan efficiency and efficacy. The information submitted must be presented separately for each State fiscal year;

(e) A provision for the application of program income and recaptured funds from loan repayments, reimbursements or other repayments, and interest earnings on the local housing distribution funds. Such provision shall evidence compliance with the provisions of Rule 67-37.007, F.A.C.;

(f) A provision requiring:

1. The county or eligible municipality to encumber the local housing distribution funds deposited into the local housing assistance trust fund for each State fiscal year by June 30 one year following the end of the applicable State fiscal year;

2. The expenditure of the local housing distribution deposited into the local housing assistance trust fund by any eligible person or eligible sponsor within 24 months of the close of the applicable State fiscal year. In all cases, this will apply when the project is completed as evidenced by documentation of final payment to the contractor and release of all lien waivers, issuance of the certificate of occupancy by the local building department in the case of a new home or proof of the final building inspection for housing rehabilitation, and occupancy by an eligible person or eligible household. In the case of a loan guarantee strategy, the deposits to the local housing assistance trust fund will be considered expended when they are deposited from the local housing assistance trust fund into the guarantee fund. The funds deposited to the local housing assistance trust fund must be spent within twenty-four months from the end of the applicable State fiscal year. Exceptions to this time frame must be approved by Florida Housing Finance Corporation SHIP Program Administrator or a majority vote of the Review Committee on a case-by-case basis. Exceptions will only be granted for good cause. Examples of good cause are natural disasters, requirements of other State agencies, adverse market conditions, and unavoidable development delays. Adequate documentation must be presented to the Review Committee before an extension will be granted, e.g., project status, work plan and completion schedule, commitment of funds, etc.

3. A detailed listing including line-item budget of proposed Administrative Expenditures. These must be presented on an annual basis for each State fiscal year submitted;

4. A copy of the ordinance and its amendments, if the original ordinance has been amended from its original submission, as required by Section 420.9072(2)(b), F.S.; and

5. Small counties and eligible municipalities receiving a local housing distribution of up to \$350,000 may use up to 10 percent of program income for administrative costs.

(7) Each local housing assistance plan shall include a disaster strategy describing activities to be undertaken in the event of an emergency or natural disaster which has been declared by executive order. The local government may use the Disaster Strategy (08/04) hereby adopted and incorporated by reference with an effective date of 1-30-05. A copy is available on Florida Housing's website at www.floridahousing.org or by contacting the Florida Housing SHIP Staff, 227 North Bronough St., Suite 5000, Tallahassee, FL 32301 or call (850)488-4197. The corporation shall disburse funds for disaster relief proportionately as provided in Section 420.9073(2)(b), F.S. Local Governments may use unencumbered SHIP funds to carry out activities of disaster relief. Recipients of SHIP funds under a local government's disaster strategy shall be required to verify income by executing a Disaster Self Certification of Income Form (08/04), hereby adopted and incorporated by reference with an effective date of 1-30-05 or a local government's form that requires the same information. A copy is available on the Corporation's website at www.floridahousing.org or by contacting the Florida Housing SHIP Staff, 227 North Bronough St., Suite 5000, Tallahassee, FL 32301 or call (850)488-4197. Pay check stubs and other forms of proof are required, if available. Other documentation required for SHIP income qualification may be waived if unavailable. The county or eligible municipality shall make every effort reasonable to insure that the recipients of SHIP funds are income qualified.

(8) A copy of the local housing assistance plan shall be submitted to the Corporation, via U.S. Mail or electronic submission. If submitted electronically, a mailed copy shall be sent to the Corporation within three working days of the plan being electronically transmitted. The mailed copy submitted to the corporation shall bear the original signature of the authorized official which includes: Mayor, Commissioner, County Manager or City Manager or the authorized official's designee and a certification that the document being submitted is the county's, eligible municipality's or interlocal entity's local housing assistance plan and that all provisions of the plan conform to the requirements of Section 420.9072, F.S., et seq., and Rule Chapter 67-37, F.A.C. Each local housing assistance plan shall be printed on 8 1/2" x 11" paper or electronic submission and contain a table of contents or checklist, which specifies exactly where in the documentation certain required items shall be located. Each local housing assistance plan amendment shall be coded with text which is being deleted struck through and text being added underlined. Within two weeks after receipt of final approval letter, the local government shall provide to the Corporation a clean copy (no strike through or underline) for Corporation files.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2), 420.9075 FS. History—New 11-26-92, Amended 5-2-93, 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.005, Amended 12-26-99, 9-22-03, 1-30-05.

67-37.006 Review of Local Housing Assistance Plans and Amendments.

(1) Local housing assistance plans and amendments shall be reviewed by a five member Review Committee appointed by the Executive Director. In the event that a quorum is not convened for the review of a plan or an amendment to a plan, action can be taken with a simple majority vote of those members present for the review.

(2) Any county or eligible municipality desiring review of any plan or amendment prior to adoption by the local government body shall submit it for review to the Review Committee. The plan or amendment will be reviewed by

the Review Committee, which will recommend it for approval or identify inconsistencies with the requirements of the SHIP program Rule Chapter 67-37, F.A.C., and Sections 420.907-.9079, F.S., within 30 days after receipt.

(3) Amendments to an approved local housing assistance plan must be adopted by resolution and the county or eligible municipality must provide a copy to the Review Committee within 21 days after adoption. A county or eligible municipality must amend its plan if at any time a strategy will be deleted or a new strategy will be added. However, an amendment must at all times maintain consistency with SHIP program requirements. All amendments will be reviewed by the Review Committee. The Committee will approve the amendment or identify inconsistencies with the requirements of the SHIP program within 30 days after receipt of the amendment.

(4) A county or eligible municipality which has adopted a Plan or an amendment that has been determined by the Review Committee to be inconsistent with the requirements of the SHIP program, shall make necessary revisions identified by the Review Committee within 45 days of receipt of the Committee's comments; however, the Corporation shall not require submission of a new local housing assistance plan to implement amendments imposed by Chapter 97-167, Laws of Florida, until the current effective plan expires.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2) FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.006, Amended 12-26-99, 9-22-03.

67-37.007 Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.

(1) SHIP local housing distribution funds shall be used to implement the local housing assistance plan. The benefit of assistance provided through the SHIP program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution deposited into the local housing assistance trust fund for a mixed-income rental development. SHIP local housing distribution funds may be used:

- (a) To implement local housing assistance and incentive strategies that create or preserve affordable housing;
- (b) To supplement Corporation programs, for example: the State Apartment Incentive Loan Program established under Section 420.5087, F.S., and HOME Home Ownership Assistance Program (HAP) established under Section 420.5088, F.S., with the SHIP local housing distribution funds directed to uses within the local government jurisdiction;
- (c) To provide local match to obtain federal housing grants or programs, such as HOME, established by 24 CFR, Part 92;
- (d) To fund emergency repairs by existing service providers under weatherization programs, pursuant to Sections 409.509-.5093, F.S.; and
- (e) To further the housing element of the local government comprehensive plan adopted pursuant to Section 163.3184, F.S., specific to affordable housing.

(2) SHIP local housing distribution funds may be used for both home ownership and rental housing activities. However, at least 65 percent of each local government's local housing distributions must be used for home ownership activities.

(3) At least seventy-five percent of a local government's SHIP local housing distributions must be used for construction, rehabilitation or emergency repairs of affordable, eligible housing. Construction, rehabilitation, or emergency repairs must be completed either within one year immediately preceding the date of conveyance of title (i.e., closing) or within 24 months of the close of the applicable State fiscal year to satisfy this requirement, unless otherwise extended as provided at subsection 67-37.002(6), F.A.C. For purposes of this rule, SHIP recipients may rely on the following expenditures to be considered construction, rehabilitation or emergency repair costs:

- (a) Those hard costs which are typically or customarily treated as construction costs by institutional lenders;
- (b) Payment of impact fees;
- (c) Infrastructure expenses typically paid by the developer;
- (d) Construction soft costs such as engineering studies and appraisals, if directly related to housing construction, rehabilitation or emergency repairs;
- (e) Relocation costs associated with rehabilitation of the residence usually occupied by a tenant or home owner; and
- (f) Financing, or "buy-down" costs, if directly attributable to assisting eligible persons to own a home or obtain rental occupancy (e.g., security and utility deposit assistance) in a home or unit which has obtained a certificate of occupancy in the 12-month period immediately preceding the contract for sale and purchase or has never been occupied or lease of the premises. When used to purchase an existing housing unit, closing costs and down payment assistance will be considered toward fulfilling the 75 percent construction requirement only if the housing unit receives rehabilitation. Any other costs may be submitted to the Review Committee for review and approval.

(4) The Review Committee will approve expenditures for the following categories as Administrative Expenditures:

- (a) Salaries of persons directly responsible for preparation of the plans or reporting required as part of the administration of the local SHIP plan;
- (b) Office expenditures of persons responsible for the administration of the local SHIP plan;
- (c) Studies conducted by the county or eligible municipality or by consultants selected by the county or eligible municipality to provide data on affordable housing need and demand in the area; and
- (d) Expenditures related to travel, training, education, and public information initiatives. Administrative Expenditures detailed in the local housing assistance plan which do not fit in these categories shall be analyzed by the Review Committee, which shall make a determination as to whether the proposed expenditures shall be approved as Administrative Expenditures.

(5) The balance of the local housing distribution funds and other funds deposited into the local housing assistance trust fund must be used for housing production and finance activities, including: financing the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan. Notwithstanding the provisions of subsections (2) and (3) of this section, program income as defined in Section 420.9071(24), F.S., may also be used to fund activities described in this subsection.

(6) The sales price or value of new or existing homes which are sold or rehabilitated under the SHIP Program may not exceed 90 percent of the average area purchase price in the statistical area in which the housing is located. The local government at its discretion may set the sales price or value below the 90 percent benchmark. The maximum

area purchase price used must be that established by the United States Department of Treasury or that calculated in accordance with Section 420.9075(4)(c), F.S.

(7) Loans issued using local housing distribution funds deposited to the local housing assistance trust fund may not have terms exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(8) All units constructed, rehabilitated, or otherwise assisted with local housing distributions provided from the local housing assistance trust fund must be occupied by eligible persons as required by Section 420.9075(4)(d)2., F.S. The remainder may be reserved for eligible persons or eligible sponsors that will serve eligible persons.

(9) Monthly mortgage payments, including taxes and insurance, and monthly rental payments must be affordable for the very low-, low- and moderate-income persons and households who will benefit from the local housing assistance plan.

(10) Rental units constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund must be monitored at least annually for 15 years or the term of assistance, whichever is longer, for compliance with tenant income and affordability requirements, as referenced in Section 420.9075(3)(e), F.S. In determining the maximum allowable rents, 30 percent of the applicable income category divided by 12 months shall be used based on the number of bedrooms. A one-person household shall be used for an efficiency unit, and for units with separate bedrooms, one and one-half persons per bedroom shall be used. A rental limit chart based on the above calculation adjusted for bedroom size will be provided to the local governments by the Corporation annually.

(11) Loans or grants for houses constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligibility municipality in its local housing assistance plan.

(12) Developers receiving assistance from both SHIP and the Low-Income Rental Housing Tax Credit (LIHTC) Program shall be required to comply with the income, affordability and other LIHTC requirements. Similarly, any units receiving assistance from SHIP and other federal, State or local programs shall be required to comply with any requirements specified by the other program in addition to SHIP program requirements. In the event both programs have restrictions on the same issue, the more restrictive regulation shall take precedence. If one program is silent on an issue, the program with a regulation on the issue shall apply.

(13) The local government may require that housing units receiving assistance from local housing distribution funds deposited to the local housing assistance trust fund be located within the boundaries of the local governmental's jurisdiction which has been approved for receipt of local housing distribution funds.

(14) Local housing distribution funds deposited to the local housing assistance trust fund may not be used as a pledge of the debt service on bonds or as rent subsidies.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.007, Amended 12-26-99, 9-22-03.

67-37.008 Local Housing Assistance Trust Fund.

(1) Amounts on deposit in each local housing assistance trust fund shall be invested as permitted by law for the local housing distribution funds of the applicable local government(s). All investment earnings shall be retained in such fund and used for the purposes thereof.

(2) The local housing assistance trust fund shall be separately stated as a special revenue fund in a county's or eligible municipality's audited financial statements. Copies of such audited financial statements shall be forwarded annually to the Corporation no later than April 30th of the following fiscal year. In addition to providing audited financial statements, all participating jurisdictions must provide evidence of compliance with the Florida Single Audit Act, as referenced in Section 215.97(6), F.S.

(3) An interlocal entity shall have its local housing assistance trust fund separately audited for each State fiscal year, which audit shall be forwarded to the Corporation as soon as available, but no later than April 30th of the following fiscal year.

(4) Local governments which have had an audit, review or investigation involving SHIP funds will send the Corporation a copy of any related report within 10 days of the issuance of such report.

Specific Authority 420.9072(9) FS. Law Implemented 420.9075(5) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 9I-37.008, Repromulgated 12-26-99, Amended 9-22-03, 1-30-05.

67-37.010 Local Affordable Housing Incentive Strategies.

The advisory committee must approve the local affordable housing incentive strategy recommendations at such public hearing by affirmative vote of a majority (5) of the membership of the advisory committee.

Specific Authority 420.9072(9) FS. Law Implemented 420.907 FS. History—New 2-9-94, 1-6-98, Formerly 9I-37.010, Amended 12-26-99, Repromulgated 9-22-03.

67-37.011 Interlocal Entities.

(1) The interlocal agreement shall specify whether a single report for all jurisdictions or individual reports for each participating local government shall be submitted pursuant to Rule 67-37.016, F.A.C.

(2) New eligible municipalities which intend to become a member of an established interlocal entity must:

(a) Adopt an ordinance which creates the affordable housing advisory committee, establishes responsibility for plan administration and, if applicable, establishes the local affordable housing trust fund.

(b) Adopt by resolution a local housing assistance plan and adopt by resolution the appointments to the advisory committee.

(3) All members of the existing interlocal entity must adopt by resolution an amendment to the local housing assistance plan to include the new eligible municipality.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(5) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 9I-37.011, Amended 12-26-99, 9-22-03.