

**CHAPTER 67-45 FLORIDA HOME OWNERSHIP ASSISTANCE
PROGRAM/DOWN
PAYMENT ASSISTANCE LOAN PROGRAM**

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67-45.001 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, F.S.

(2) "Construction Loan" means a loan to a non-profit sponsor or developer under the Homeownership Loan Program as more fully described in Rule Chapter 67-50, F.A.C.

(3) "Corporation" means the Florida Housing Finance Corporation.

(4) "Down Payment Assistance Loan" means a Florida Home Ownership Assistance Program loan for which no interest is charged and which shall be limited to the lesser of 25 percent of the purchase price of the Home or the amount necessary to enable an Eligible Borrower to meet credit underwriting criteria.

(5) "Eligible Borrower" means a person or persons or family or families:

(a) Who intend to permanently reside as a household in the Home as their principal single-family residence;

(b) Whose total annual family income at time of closing does not exceed 80 percent of the State or local median income, whichever is greater, adjusted for family size.

(c) Who are participating in the Corporation's Single-Family Bond Program.

(6) "FannieMae" means the Federal National Mortgage Association, a corporation organized and existing under the Federal National Mortgage Association Charter Act, 12 U.S.C. 1716 et seq.

(7) "FHA" means the Federal Housing Administration of the U.S. Department of Housing and Urban Development or other Agency or instrumentality created or chartered by the United States government to which the powers of the Federal Housing Administration have been transferred.

(8) "First Mortgage" means the recorded mortgage to which the Down Payment Assistance Loan is subordinated and which is superior to any other lien or encumbrance on the property.

(9) "Florida Home Ownership Assistance Program" or "HAP" means the Florida Home Ownership Assistance Program created under Section 420.5088, F.S., which includes the Construction Loan Program, the Permanent Loan Program and the Down Payment Assistance Loan Program.

(10) "Freddie Mac" means the Federal Home Loan Mortgage Corporation, or any successor thereto.

(11) "Home" means a residential unit used as a single-family residence, which is taxed as real property under the laws of the State of Florida and is located within the State, including a condominium unit and a manufactured home meeting conventional or FHA standards, which is acceptable to any insurer providing private mortgage insurance, FHA, VA or RD. The dwelling structure may consist of two-, three- or four-family dwelling units one unit of which is to be occupied by the mortgagor of the units and all of

which units were first occupied as homes at least five (5) years before the Loan with respect to such Home which:

- (a) Is designed and intended primarily for residential housing;
- (b) Is determined by a qualified appraisal to have an expected useful life of not less than 30 years or the term of the First Mortgage, whichever is less;
- (c) Will be occupied by the owner as his or her principal residence within 60 days after financing is provided;
- (d) Has a sales price which does not exceed the Maximum Acquisition Price as defined in subsection 67-45.001(12), F.A.C., of this rule.
- (e) Maintains the basic livability of the residence and will not be used for business purposes to generate additional income for the Eligible Borrower (including child care services, on a regular basis for compensation) unless such income is used to qualify the borrower for the loan.

(12) "Maximum Acquisition Price" means the maximum purchase price of a Single Family Residence, as prescribed in the IRS Revenue Procedures 2004-24, hereby incorporated by reference. The Acquisition Price Limits are also subject to the FHA/VA/RD limits for the counties. Copies of these documents may be obtained by contacting the Single Family Bonds Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1397.

(13) "Participating Lender" means the entity signing a Master Mortgage Purchase Agreement and all applicable Supplements to the Master Mortgage Purchase Agreement, hereby incorporated by reference. A copy of this document may be obtained by contacting the Single Family Bonds Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1397. By virtue of executing the Master Mortgage Purchase Agreement the Participating Lender represents that it is a home mortgage lending institution or entity:

- (a) Participating in the local private home lending market;
- (b) That is an FHA-approved mortgagee (with direct endorsement underwriting authority preferred), or a VA-approved lender (with automatic approval authority preferred), or an RD-approved lender (unless waived by the Corporation or its designee);
- (c) With respect to Conventional Mortgage loans, is a FannieMae or Freddie Mac approved lender in good standing, has errors and omissions coverage of at least \$300,000, meets the requirements of the Corporation or its designee with respect to financial status and is acceptable to a FannieMae or Freddie Mac PMI Insurer;
- (d) Which can make the representations and warranties and covenants set forth in the Master Mortgage Purchase Agreement; and
- (e) Which has agreed to and will originate Mortgage Loans itself or through correspondent mortgage lending institutions.

(14) "Permanent Loan" means a loan to a borrower under the Homeownership Loan Program as more fully described in Rule Chapter 67-50, F.A.C.

(15) "RD" means Rural Development Services (formerly the Farmer's Home Administration) of the United States Department of Agriculture.

(16) "Second Mortgage" means the recorded mortgage securing the Down Payment Assistance Loan, which is subordinate only to the lien of the First Mortgage.

(17) "Single-Family Bond Program" means the Single-Family Mortgage Revenue Bond Program implemented pursuant to Rule Chapter 67-25, F.A.C., or any other public or private loan program approved by the Corporation's Board of Directors as a substitute for the Single-Family Mortgage Revenue Bond Program.

(18) "VA" means the U.S. Department of Veterans Affairs, an agency of the United States of America. Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 9I-45.001, Amended 12-26-99, 10-29-01, 12-7-03.

67-45.002 Notice of Funding Availability.

The Corporation shall publish a notice in the Florida Administrative Weekly announcing its intention to provide funding for qualified mortgage loans under the Single-Family Bond Program and the Down Payment Assistance Loan Program and inviting qualified Lenders to submit **offers to originate** to the Corporation at least seven (7) days prior to selection. Such notice shall be published at least sixty (60) days prior to the anticipated availability of Loan funds. Specific Authority 420.507(12), (23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 9I-45.002, Amended 12-26-99, 10-29-01.

67-45.003 General Program Restrictions.

Loans will be subject to the following restrictions:

(1) In no case may an Eligible Borrower receive more than one Down Payment Assistance Loan or any other second mortgage loan offered by the Corporation.

(2) Loans shall be made available only to Eligible Borrowers to finance Homes which do not exceed the Maximum Acquisition Price.

(3) Loans will be serviced by the Corporation or its designated servicer.

(4) Loans shall be evidenced by a properly executed note as evidence of the indebtedness and shall be secured by a properly executed and recorded mortgage, subject only to the lien of the First Mortgage.

(5) Prepayment of the Loans shall be permitted without penalty.

(6) Loans are not assumable.

(7) No more than one-fifth of the funds available in the Trust Fund may be made available by the Board of Directors to provide loan loss insurance reserve funds to facilitate homeownership for any persons or families whose incomes do not exceed 140 percent of the State median income or local median income, whichever amount is higher. In the event of default, the reserve funds are authorized to be used to offset losses incurred by both the first mortgagee and the second mortgagee. Specific Authority 420.507(12), (23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 9I-45.003, Amended 12-26-99, 12-7-03.

67-45.004 Application Procedures.

(1) Eligible Borrowers shall apply for a Down Payment Assistance Loan with any Participating Lender which is processing the applicant's First Mortgage Loan application.

(2) Prior to receiving funding for a Down Payment Assistance Loan, Eligible Borrowers shall meet all eligibility requirements as specified in the relevant Single-Family Bond Program documents.

(3) Eligible Borrowers shall execute a note and mortgage for this loan.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.5088(2) FS. History—New 8-7-95, Formerly 9I-45.004, Amended 12-26-99, 10-29-01, 12-7-03.

67-45.005 Terms and Conditions of Loans.

(1) All Down Payment Assistance Loans must be in compliance with the Act and shall adhere to the terms and conditions outlined in Rule Chapter 67-50, F.A.C.

(2) The Loan shall not exceed 30 years or the term of the First Mortgage of principal is deferred until the expiration of the term of the First Mortgage, or in the event of sale, transfer, refinancing or failure to occupy the Home as the primary residence as outlined in Rule 67-25.014, F.A.C., in which case the Loan is due and payable in full at that time. Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 9I-45.005, Amended 12-7-03.

67-45.006 Loan Processing.

(1) All applications and Loans are processed by the Participating Lenders in accordance with each Participating Lender's standard underwriting criteria and any additional criteria imposed by FHA, VA, FannieMae, Freddie Mac, RD or other parties insuring or guaranteeing the First Mortgage loan.

(2) Loan applications shall be reviewed by the lender originating the First Mortgage on the basis of first-come, first-served.

(3) If sufficient funds are not available in the full amount of the Loan as requested, the application shall be deferred to a waiting list maintained by the Corporation or its designee on a first-come, first-served basis. Such application shall be considered as soon as sufficient funds become available to finance the Loan. Specific Authority 420.507(12), (23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 9I-45.006, Amended 12-26-99, 10-29-01, 12-7-03.

67-45.007 Fees.

In connection with the origination of a Down Payment Assistance Loan, the Lender may collect and retain from the Eligible Borrower a \$75.00 application fee, payable at the time of application. Specific Authority 420.507(4), (12), (23) FS. Law Implemented 420.507(19) FS. History—New 8-7-95, Formerly 9I-45.007, Amended 10-29-01, 12-7-03.